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I N T R O D U C T I O N

The Montana Environmental Policy Act (MEPA), enacted in 1971, established the Environmental Quality Council (EQC) as an arm of the Legislature. MEPA charged the Council with researching and reviewing state regulations and policies affecting Montana's environment, gathering information on current environmental issues, and recommending measures to "foster and promote the general welfare, to create and maintain conditions under which man and nature can coexist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Montanans."

MEPA also specifies that EQC has the responsibility to "analyze legislative proposals in clearly environmental areas and in other fields where legislation might have environmental consequences". In partial fulfillment of this responsibility and at the direction of the Council, this report of Natural Resource Issues in the 47th Legislature was prepared. The Council asked its staff to develop a detailed summary of natural resource-related matters considered in the 1981 session that would be available to legislators and the public. The Council felt that this report could be a valuable tool in evaluating the Legislature's progress in dealing with natural resource issues facing Montana and provide a basis upon which future Legislatures could build policy decisions.

The report includes a numerical index of bills summarized, a description of legislation, and action taken on the bills by the Legislature. The bills are divided into eleven major categories, including: Energy, Land Use, Mining, Oil and Gas, Pests, Pollution, Transportation, Waste, Water, Wildlife, and a general category.

Because Montana's history and her future are inextricably tied to her natural resources, many of the bills described in this report generated considerable interest and controversy. This report does not presume to criticize the Legislature for its actions or omissions, nor does it advance policy recommendations. It simply provides a broad overview and factual discussion of the substantial number of natural resource issues addressed by the Legislature in 1981. In the Environmental Quality Council's Annual Report, to be issued in mid-1982, some of the more significant issues described in this report will be analyzed in greater depth.

E N E R G Y

CONSERVATION

Eight pieces of legislation dealing with energy conservation were considered by the Legislature in the 1981 session, all of which originated in the House. Four of the measures introduced became law. These provide tax incentives for energy conserving capital expenditures, authorize utilities to loan money for installation of non-fossil home energy generation systems, provide procedures for obtaining low-cost financing for energy conservation measures, and urge the State of Montana to purchase rerefined oil in certain cases.

The bills that did not pass would have promoted energy planning by local governments through a grant program, permitted local governments to adopt more strict insulation standards than those of the state building code, required the State of Montana to purchase and use rerefined oil in certain cases, and provided new tax incentives for energy conservation practices.

(See also HB 780)

PASSED:

HB 237[1] - McBride (By request of the Department of Natural Resources and Conservation) - Provides a credit against individual income tax liability under Title 15, Chapter 30 MCA for capital expenditures for energy conserving purposes, determined as follows: (a) residential building - the lesser of $150 or 5% of the expenditure; (b) non-residential - the lesser of $300 or 5% of the expenditure. The bill eliminates the deduction from individual income tax liability for such expenditures, and applies to tax years beginning after December 31, 1980.

HB 509[2] - Quilici - The purpose of this bill is to provide for administration by the Department of Natural Resources and Conservation of the (new) residential conservation service program mandated by the National Energy Conservation Policy Act of 1978 (P.L. 95-619). Implementation of this program provides citizens with a means of determining the need for and the cost effectiveness of various energy conservation measures. The bill also provides procedures for obtaining low-cost financing for installation of necessary energy conservation measures. Uncertainties concerning federal funding for this program have prevented

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[1]Chapter 480, Montana Session Laws 1981

[2]Chapter 137, Montana Session Laws 1981

its implementation as of this date.

Enacts: 90-4-501 through 90-4-504, MCA

Third reading votes: Senate 46-2 House 86-0

HB 569[1] - Kemmis - This legislation authorizes utility loans for installation of recognized non-fossil forms of energy generation systems in a dwelling on the same basis as utility loans for installation of energy conservation systems in a dwelling. It also raises the tax credit ceiling on such loans by utilities and financial institutions.

Utilities may charge not more than 7% interest on the declining balance of the sum advanced. Financial institutions may offer loans at not less than two percentage points below the discount rate on 90-day commercial paper. Utilities and financial institutions may compute the difference between interest they actually receive on such transactions and the interest which would have been received at the prevailing average interest rate for home improvement loans. A utility may also apply the difference so computed as a credit against its tax liability for the electrical energy producer's license tax. The Public Service Commission must regulate rates in such a manner that a utility making loans may not make a profit as a result of this legislation.

A utility may not claim a tax credit exceeding $500,000 in any tax year, and financial institutions may not claim a credit exceeding $2,000 in any tax year.

Amends: 15-32-107, MCA

Third reading votes: Senate 45-5 House 89-8

HJR 19 - Bertelsen (By request of the Environmental Quality Council) This resolution urges state purchasing offices and the Department of Administration to purchase rerefined oil that meets quality specifications and directs the Department of Health and Environmental Sciences to study the feasibility of establishing a system for collecting used oil in the State of Montana.

Third reading votes: Senate 48-0 House 97-1

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[1]Chapter 266, Montana Session Laws 1981

KILLED:

HB 278 - Azzara - Seeks to promote comprehensive energy planning by local governments through grants administered by the Department of Natural Resources and Conservation. The department shall make grants that could result in significant savings of traditional energy sources as well as the development of renewable energy systems; $250,000 is appropriated from the Coal Tax Constitutional Trust Fund income account for this purpose.

Bill died in House Committee on Appropriations.

HB 280 - Azzara - Permits a local governing body to adopt building regulations requiring more strict insulation standards than those of the state building code.

Amending 50-60-301, MCA

Bill killed in House Committee on Local Government.

HB 506 - Bertelsen - Requires the state, its political subdivisions, school districts, and particularly the Department of Highways to purchase and use rerefined lubricating oil when it is reasonably available and meets specifications for quality. Directs the Department of Health and Environmental Sciences to study the feasibility of establishing a collection and recycling system for used oil in Montana.

Bill killed in House Committee on Highways and Transportation.

HB 707 - Marks (See also Renewable Resource Development) - Provides tax incentives for energy conservation practices and the development and use of solar, wind, and other renewable energy systems. Establishes a program of energy conservation in the state.

Repealing 15-32-102 through 15-32-106, 15-32-108, and 15-32-201 through 15-32-203, MCA

Bill killed in House Committee on Taxation.

ENERGY SUPPLY EMERGENCY

Two of the three bills concerned with energy emergencies considered by the Legislature passed and became law. The two new laws provide for regular monitoring of energy supplies and demand and expand the Governor's powers in the case of an energy supply emergency.

The bill that did not gain legislative approval would have authorized the Governor to incur expenses payable out of the general fund

in certain energy emergency situations.

PASSED:

HB 16[1] - Quilici (By request of Study Committee on Energy Forecasting) - This bill amends the current law by providing for regular monitoring of energy supplies and demand to mitigate the effects of shortages. The Governor may obtain monthly reports on petroleum supplies and consumption from refiners, prime suppliers, pipeline companies, and bulk pipeline terminals. The bill provides for confidentiality of trade secrets and other facts of a proprietary nature. The Legislature failed to fund the operation of this program, however.

Amends 90-4-301, 90-4-302, 90-4-305, MCA

Third reading votes: Senate 36-11 House 82-16

HB 90[2] - Quilici (By request of the Department of Natural Resources and Conservation) - This bill amends the Governor's emergency supply powers to extend an energy emergency condition to 45 days before automatic termination without legislative approval.

Amends 90-4-310, MCA

Third reading votes: Senate 39-9 House 96-1

KILLED:

SB 259 - S. Brown - Authorizes the Governor to incur liabilities and expenses to be paid out of the general fund when an emergency arises due to a shortage of energy which would menace the health, welfare, safety, lives, or property of any considerable number of persons in any county or community of the state.

Amends 10-3-311 and 90-4-318, MCA

Bill killed in Senate Committee on State Administration.

MAJOR FACILITY SITING

Of the seven bills introduced in the 1981 session pertaining to the siting of major energy facilities, four did not receive legislative approval and one was withdrawn by its sponsor.

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[1]Chapter 204, Montana Session Laws 1981

[2]Chapter 387, Montana Session Laws 1981

One of the two bills that became law substantially revises the Major Facility Siting Act, while the other deals mainly with a specific procedural matter.

The bills that did not pass would have, among other things, also resulted in substantial substantive revision of the Major Facility Siting Act including expanding the coverage of the act to include large scale mineral processing facilities.

(See also Mining SB 376)

PASSED:

HB 607[1] - Harp - This bill assigns the burden of proof when application is made to amend a certificate of environmental compatability and public need. If it is determined that a hearing is required because the proposed change would result in any material increase in any environmental impact or change in location, the applicant has the burden of showing by clear and convincing evidence that the amendment should be granted.

If the department determines that the proposed change would not produce substantial impacts or changes, and a hearing is required (because of an appeal), the appellant has the burden of showing that the proposed change would produce substantial impacts or changes in location, other than as provided in the alternates set forth in the original application.

Amends 75-20-219, MCA

Third reading votes: Senate 48-0 House 94-1

SB 376[2] - S. Brown - This bill substantially changes the siting act and makes the following provisions:

1. Increases the exemption limit for an addition (except pollution control) to a generation facility from $250,000 to $10 million;
2. Revises the definition of a facility - coal gasification, liquid hydro-carbon production, uranium enrichment, and coal conversion to $10 million - geothermal derived power to $750,000;
3. Exempts facilities subject to the Montana Strip and Underground Mine Reclamation Act;
4. Expands exemption criteria for the relocation, reconstruction, or upgrading of a facility to include alternative energy sources which result in efficiency, promote conservation or reliability;
5. Clarifies appellate review procedures;

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[1]Chapter 372, Montana Session Laws 1981

[2]Chapter 539, Montana Session Laws 1981

6. Clarifies which decisions of the Board of Health and Environmental Sciences (and Department) are conclusive; and,

7. Requires the board to waive the alternative site study, advance notice, and minimum adverse environmental impact requirements when a facility will be constructed in a county that has experienced severe unemployment problems because of a plant closure.

Amends 75-20-104, 75-20-202, 75-20-211, 75-20-216, 75-20-218, 75-20-220, 75-20-304, 75-20-406, MCA

Third reading votes: Senate 48-0 House 87-6

KILLED:

HB 236 - Moore - Generally revises the Montana Major Facility Siting Act. Provides for a potential applicant to receive a credit against the filing fee payable under Title 75 for the development of information or provision of services required thereunder or required for the preparation of an environmental impact statement under the National Environmental Policy Act. Seeks to simplify the procedure for amending an application or a certificate for a facility. Shortens the time limits within which decisions must be made by the Department of Health and the Department of Natural Resources concerning applications for a facility.

Amends 75-20-104, 75-20-106, 75-20-216, 75-20-219, and 75-20-503, MCA

Bill withdrawn by sponsor.

HB 426 - Huennekens - Provides for the inclusion of certain mineral processing plants under the Major Facility Siting Act. Prohibits the construction or operation of an industrial facility with a construction cost of at least $25 million that processes, smelts, reduces, refines, or manufactures any natural resource for sale or commercial use without a certificate of environmental compatability and public need acquired pursuant to Title 75, MCA.

Amends 75-20-102 and 75-20-104, MCA

Bill died in House Committee on Natural Resources.

HB 571 - Ernst - Provides that optional annual payments for location of a facility on a landowner's property under the Montana Major Facility Siting Act be based on fair market rental value and be subject to renegotiation every five years.

Amends 75-20-409, MCA

Bill killed in House Committee on Judiciary.

SB 89 - Manley - Requires the Attorney General to bring an action to determine whether or not the federal government must comply with state facility siting requirements in each instance when a federal entity is involved with a facility sited in Montana that is likely to have significant environmental impact.

Amends 75-20-202, MCA

Bill killed in House Committee on Judiciary.

SJR 14 - S. Brown - Requests that an appropriate interim committee be assigned to study various elements of the Montana Major Facility Siting Act.

Resolution killed on second reading in House.

OPPOSITION TO ENERGY GENERATING FACILITIES

The four pieces of legislation that were introduced concerning disturbances created by opponents of certain energy generating facilities failed to become law. The proposed legislation sought to impose liabilities for interference with energy facilities without good cause, award attorneys fees to defendants in law suits that delay energy projects when the defendant prevails, and urge Congress to enact similar legislation.

KILLED:

HB 185 - Kanduch - Imposes liability and penalties upon persons who delay or interfere with any industrial or commercial development, construction, or operation without good cause.

Bill killed in House Committee on Business and Industry.

HB 668 - Curtiss - Allows awarding of court costs, attorneys fees, and costs of construction delays to defendants in law suits that delay construction of energy projects when final resolution is in favor of the defendant.

Bill killed on second reading in House.

SB 364 - Hafferman - Awards costs and attorneys fees to defendants in certain environmental class actions and requires security for such costs and fees.

Bill killed in Senate Committee on Judiciary.

SJR 4 - Hafferman - Urges Congress and other branches of the federal government to study and implement ways to make groups intervening in proceedings relating to the construction of energy generation facilities legally and financially responsible for their actions. Urges Congress to enact legislation that will prevent special interest groups and federal agencies from halting the construction of energy generation facilities on procedural or non-substantive grounds once statutorily required review has been completed and approval has been granted.

Resolution killed on second reading in House.

POWER GENERATION

Two bills and two resolutions dealing with electrical power generation were considered by the Legislature and adopted. These enactments provide access to tax exempt financing for small scale hydro projects, provide for lease of hydroelectric projects by the Department of Natural Resources to public utilities, urge the continuation of federal funding for the MHD program, and urge FERC to relicense the Kerr Hydroelectric project to the Montana Power Company.

In addition, four pieces of legislation were introduced that did not pass. Two of the bills that failed were together substantially similar to the one that passed permitting the leasing by the Department of Natural Resources of hydroelectric plants, while the other would have appropriated funds for the continuation of the MHD program. The one resolution that failed to gain approval sought to express support for the participants in a proposed hydroelectric project on the Kootenai River.

(See also Waste HB 532; Water HB 628, HB 861)

PASSED:

HJR 18 - Seifert - Urges that the Federal Energy Regulatory Commission relicense the Kerr Hydroelectric Project to the Montana Power Company.

Third reading votes: Senate 44-5 House 82-16

SB 138[1] - Dover (By request of the Environmental Quality Council) Provides developers with access to tax exempt financing for SSH projects. The bill specifically provides for industrial development project financing of SSH production facilities with a generating capacity of 50 megawatts or less.

Amends 90-5-101, MCA

Third reading votes: Senate 48-0 House 87-9

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[1]Chapter 318, Montana Session Laws 1981

SB 229[1] - Turnage - Provides for development of hydroelectric power generation at appropriate Department of Natural Resources and Conservation water projects. Economic and environmental feasibility studies are required of water projects under the department's control. Provides for the lease of such projects to public utilities, cooperatives and corporations, provided the developer is capable of paying adequate royalties, carrying out the project without delay, and providing efficient and reliable service. The bill authorizes the construction and operation of such facilities by the department if no lease is consummated, and establishes the method of sale of power generated at such facilities.

Enacts 85-1-501, MCA

Third reading votes: Senate 46-4 House 66-29

SJR 24 - J. Jacobson - Urges the continuation of federal funding for the magnetohydrothermodynamics engineering test facility in Montana.

KILLED:

HB 397 - McBride - Provides for the lease of water projects under the control of the Department of Natural Resources for hydroelectric development.

Amends 85-1-102, MCA

Bill died in Senate Committee on Natural Resources.

HB 628 - Briggs - Prohibits the Department of Natural Resources from constructing, operating, and maintaining water projects for the development of power while providing specific authority for the department to lease such projects and establishing the requirements therefor.

Amends 85-1-102, MCA

Bill died in House Committee on Natural Resources.

HB 869 - Meyer - Appropriates funds to the Department of Commerce from the coal severance tax to provide funding for certain capital projects at the MHD facility in Butte. Intends to demonstrate the commitment of the Montana Legislature to the use of coal severance tax proceeds for the minimization of impacts of coal development by partially funding the development of MHD technology which potentially may provide for more efficient generation of electricity.

Bill killed in House; Senate amendments rejected.

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[1]Chapter 503, Montana Session Laws 1981

HJR 11 - Harp - Commends and supports Northern Lights, Inc. and other participants in a proposed project to construct a hydro-electric dam on the Kootenai River near Troy.

Resolution died in House Committee on Natural Resources.

PUBLIC UTILITIES

Ten pieces of legislation dealing with public utilities were considered by the 1981 session. Of these, only two bills and one resolution passed.

PASSED:

HB 765[1] - Donaldson - Provides for municipal regulation of municipally owned utilities. Rates, charges, and classifications may not be raised to yield more than a 12% increase in total annual revenues, or in the case of mandated federal and state capital improvements, the increase may not exceed amounts necessary to meet requirements of bond indentures or loan agreements required to finance the mandated improvements. The bill requires filing of revised rate schedules with the Public Service Commission and annual reports to the PSC and Montana Consumer Counsel. The bill also contains provisions for notice and appeal.

Amends 69-3-101, MCA

Enacts 69-7-101, 69-7-102, 69-7-112, 69-7-113, 69-7-121, 69-7-201, MCA

Third reading votes: Senate 42-5 House 87-8

SB 139[2] - Dover - Authorizes the sale of electricity from qualifying small power production facilities to utilities under rates and conditions mutually agreed upon or established by the Public Service Commission. Sale of electricity to electric cooperatives is authorized under terms and conditions mutually agreed upon and in compliance with the Public Utility Regulatory Policies Act (PURPA).

Amends 90-5-101, MCA

Third reading votes: Senate 48-0 House 75-21

SJR 27 - Kolstad - Requests the Legislative Audit Committee in conjunction with its performance audit to consider the current and ongoing public utility regulatory procedures and practices of the Public Service Commission to determine the impact on both consumers

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[1]Chapter 607, Montana Session Laws 1981

[2]Chapter 436, Montana Session Laws 1981

and utilities and requires a report of the findings of the study to the Legislature. The resolution specifically directs a study of the problems of alleged regulatory lag, funding and staffing concerns, and the allowance of a reasonable rate of return to utilities.

KILLED:

HB 262 - Smith - Expressly removes any restriction under Chapter 69, MCA which affects the right of an electric supplier to furnish electric service to business related premises owned by an electric supplier.

Amends 69-5-107, MCA

Bill died in House Committee on Business and Industry.

HB 318 - Vincent - Prohibits utility rate increases during the budget period of a state or local government agency or school district without advance notice. For a school district, advance notice is required at least 40 days prior to the regular school election and for other agencies funded by public funds, advance notice is required at least 30 days prior to the final date for submission of preliminary estimates as required by Title 7, MCA.

Amends 69-3-302, MCA

Bill died in House Committee on Business and Industry.

HB 431 - Meyer - Requires the PSC to approve public utility rates based on projected data for a future period.

Bill died in House Committee on Business and Industry.

HB 515 - Vincent - Gives the Public Service Commission the authority to compel the production of information necessary for an independent audit of a regulated utility and appropriates funds for that purpose.

Bill died in House Committee on Business and Industry.

HB 780 - Azzara - Provides financial incentives for production of energy from renewable resources and for development and implementation of energy conservation measures. Requires investor-owned (regulated) gas and electric utilities to purchase energy, when economically available, from persons not primarily engaged in the production, transmission, or sale of energy, when those persons operate qualifying facilities that supply energy collected through conservation efforts or produced by renewable resource technology.

Bill died in Senate Committee on Business and Industry.

SB 147 - Goodover - Allows the updating of general rate orders by the Public Service Commission on an expedited basis to reflect changes in costs or expenses.

Amends 69-3-323, MCA

Bill died in Senate Committee on Business and Industry

SB 301 - Dover - Permits a public utility in a general rate proceeding to immediately file a rate change application and charge rates to cover known and measurable changes in cost or expense items. The PSC may as part of its final order after a determination has been made on all matters raised by the application, order credit or rebate, with interest, on equity granted in the last general rate order.

Amends 69-3-302, MCA

Bill killed in Senate Committee on Business and Industry.

RENEWABLE ENERGY RESOURCE DEVELOPMENT

Four measures dealing with the development of renewable energy resources were adopted by the last Legislature. One of the bills reduces state funding of alternative energy research while another provides for loans for such research through private lending institutions. The other bill that became law revises the alternative energy grant program and the only resolution that passed concerned a non-substantive matter relative to alcohol fuel production.

Three pieces of legislation concerning alternative energy resources also were introduced and did not gain legislative approval. One of the two bills considered would have provided for incentives for the development of solar, wind, and other renewable energy systems and the other would have provided funds for a grant to construct a facility to convert waste biomass into non polluting pelletized fuel. A resolution that was also not adopted would have directed the Department of Natural Resources to conduct a feasibility study on alcohol-coal processing.

(See also HB 780)

PASSED:

HB 223[1] - Schultz - Reallocates the coal severance tax by reducing the amount allocated to alternative energy research from 5% to 4-1/2%, and allocates 1/2 of 1% of the tax to conservation district operations. The bill provides for a conservation district account, administration, and rule-making. See also Conservation Districts.

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[1]Chapter 479, Montana Session Laws 1981

Amends 15-35-108 , MCA

Enacts 76-15-530 , MCA

Third reading votes: Senate 43-3 House 90-2

HB 398[1] - Quilici - Generally revises the alternative energy grant program. Criteria for granting awards require that funds committed for demonstration purposes have good potential for producing savings of non-renewable energy sources. Funds may not be committed if: 1) previous commitments of a similar nature were not productive; 2) similar demonstration has been conducted within close geographic proximity; or, 3) the proposal would not further the purposes of the program. Requires the Department of Natural Resources and Conservation to monitor the grants awarded and make reports to the Legislature. It also requires periodic reports to the Environmental Quality Council for review and evaluation.

Amends 90-4-106, 90-4-107, MCA

Enacts 90-4-108 , MCA

Third reading votes: Senate 50-0 House 96-0

SB 141[2] - Dover (By request of the Department of Natural Resources and Conservation) - Allows the department to award loans from the alternative energy research and development and demonstration account for research, development, demonstration, and commercialization of alternative renewable energy sources. Allows the department to make loans through Montana's financial institutions for commercialization of such sources. Authorizes rules governing applications and administration, and establishes criteria for awards.

Amends 90-4-191, 90-4-104 through 90-4-106 , MCA

Third reading votes: Senate 48-0 House 86-10

SJR 10 - Norman (By request of the Senate Committee on Taxation) Urges the Congress to remove alcohol fuel production permits and information from the confidentiality requirements of the Internal Revenue Code and urges the Bureau of Alcohol, Tobacco, and Firearms to make this information available to the public.

KILLED:

HB 602 - Curtiss - Provides for a $680,250 grant from the alternative energy research development account to Fibre, Inc., a

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[1]Chapter 402, Montana Session Laws 1981

[2]Chapter 356, Montana Session Laws 1981

Montana corporation, for the purpose of constructing a facility to convert biomass into non polluting pelletized fuel.

Bill died in House Committee on Appropriations.

HB 707 - Marks - See CONSERVATION section.

SJR 31 - Senate Committee on Natural Resources - Directs the Department of Natural Resources to conduct a feasibility study on ethacoal and methacoal processing in order to determine if these processes should be developed in Montana.

Resolution died in House Committee on Natural Resources.

RURAL CO-OPERATIVE UTILITIES

Each of the three bills affecting rural co-operative utilities introduced in the 1981 Legislature was passed and became law.

PASSED:

HB 104[1] - Manuel - Allows the boards of trustees of rural cooperative utilities to choose a place for membership meetings. It also specifies that five percent of all members present in person or 50 members present in person, whichever is fewer, shall constitute a quorum.

Amends 35-18-303, MCA

Third reading votes: Senate 48-1 House 86-9

HB 106[2] - Switzer - Amends the definition of a "rural area" as the term applies to the Rural Electric and Telephone Cooperative Act. Under the act, a co-op may serve rural areas not included within an incorporated or unincorporated city or town with a population in excess of 1,500 persons. As amended, a "rural area" includes towns having a population in excess of 1,500 persons when those areas are acquired by a cooperative under an agreement with the entity previously serving the town, or if the town was served by the co-op when it had a population of less than 1,500 and subsequently grew. The act applies to rural areas not included within boundaries of towns larger than 3,500 which are not already being served by a system or facility.

Amends 35-18-102, MCA

Third reading votes: Senate 47-0 House 98-0

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[1]Chapter 131, Montana Session Laws 1981

[2]Chapter 208, Montana Session Laws 1981

SB 445[1] - Hazelbaker (By request of the Senate Business and Industry Committee) - Clarifies the authority of a rural electric or telephone cooperative to provide in its bylaws for the establishment of an amount of compensation to be paid to its directors while engaged in official business of the cooperative, including attendance at board and committee meetings, and representation at meetings approved by the board.

Amends 35-18-311, MCA

Third reading votes: Senate 49-1 House 98-0

OTHER

PASSED:

HB 36[2] - Brand (Contingent on Congressional Action) - Provides for taxation as Class 11 property of certain electric transmission and distribution property constructed, owned, or operated by a public agency or created by Congress to transmit or distribute electric energy produced at privately owned generating facilities. The bill does not apply to rural electric cooperatives. The bill eliminates tax exemptions for such property and includes property among properties centrally assessed.

Amends 15-6-141, 15-6-201, 15-23-101, MCA

Third reading votes: Senate 49-1 House 98-0

HB 641[3] - Quilici - Public Law 96-501 establishes the Pacific Northwest Electric Power Planning and Conservation Council. HB 641 provides for the agreement by the state to formation of and participation in the Council. It provides for the appointment of members, functions, duties, compensation, and requires reports to the Governor detailing expenditures, activities, and plans.

Enacts 90-4-401 through 90-4-404, MCA

Third reading votes: Senate 46-1 House 97-2

KILLED:

SB 282 - Dover - Requires the Environmental Quality Council to act as a legislative energy and natural resources policy review committee. Provides for additional duties and powers of the council while establishing additional procedures under which the council

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[1]Chapter 237, Montana Session Laws 1981

[2]Chapter 478, Montana Session Laws 1981

[3]Chapter 50, Montana Session Laws 1981

functions.

Amends 2-4-402 and 75-1-301, MCA

Bill killed in Senate - second reading

L A N D U S E

ANNEXATION

Three bills dealing with the annexation of land by a municipality were adopted by the Legislature and became law. One creates a conclusive presumption of annexation in certain cases where municipal boundaries have been improperly or unofficially drawn. Another provides municipalities with discretionary authority in selecting the annexation procedure that is most appropriate given a particular set of circumstances. The other deals with the provision of services to annexed areas.

In addition, four bills failed to gain legislative approval which would have deleted certain restrictions on annexation of land, provided for annexation of high density land in certain cases, and eliminated a distinction between rights of resident and non-resident freeholders in matters of annexation.

PASSED:

HB 54[1] - Hurwitz (By request of the study committee on annexation laws) - Allows municipalities to select the annexation procedure appropriate to each annexation situation. The pertinent language is "the governing body of the municipality to which territory is proposed to be annexed may in its discretion select one of the annexation procedures in parts 42 through 47 that is appropriate to the circumstances of the particular annexation. The municipal governing body must then follow the specific procedures prescribed in the appropriate part." The bill arose from confusion among municipal officials as to which of the eight methods of annexation should be followed when more than one method fit the particular situation.

Amends: 7-2-4204, 7-2-4304, 7-2-4408, 7-2-4505, 7-2-4609, 7-2-4718

Third reading votes: Senate 50-0 House 66-6

HB 55[2] - Fabrega - (By request of the study committee on annexation laws) - Prescribes conditions under which land is presumed to be annexed and may be so recorded. A tract or parcel of land that has been shown on municipal maps or plats as being within municipal

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[1]Chapter 130, Montana Session Laws 1981

[2]Chapter 109, Montana Session Laws 1981

boundaries but is later found to have been improperly or unofficially annexed is conclusively presumed to be annexed and may be so recorded if municipal taxes have been paid on the tract or parcels without protest for a period of seven years.

HB 58[1] - Kessler (By request of the study committee on annexation laws) - Relates to the provision of services by municipalities to newly annexed areas. "In all cases of annexation under current Montana law, services will be provided according to a plan provided by the municipality as specified in 7-2-4732, which provides for a long-range plan for extension of services, except:

1. as provided in 7-2-4736 (preservation of existing service in the event of annexation) and,

2. in first class cities, where otherwise mutually agreed upon by the municipality and the freeholders of the area to be annexed."

Amends: 7-2-4205, 7-2-4305, 7-2-4506, 72-4610, MCA

Third reading votes: Senate 50-0 House 85-11

KILLED:

HB 33 - Azzara - Provides for municipal annexation of high density land under certain conditions.

Bill killed in House; Senate amendments rejected.

HB 56 - Kessler - Deletes restrictions on annexation of land used for industrial, manufacturing, mining, smelting, refining, or transportation purposes. Facilities that would hence be subject to annexation are given an option to supply their own services if they had previously provided services that would otherwise have been provided by the municipality.

Amending 7-2-4608, MCA

Repealing 7-2-4303, MCA

Bill killed in Senate Committee on Local Government.

HB 57 - Azzara - Deletes restrictions on the annexation of wholly surrounded land and prohibits strip annexation. Prohibits the annexation of areas that cannot be reasonably assumed to be used for orderly development of a city or town.

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[1]Chapter 447, Montana Session Laws 1981

Amending 7-2-4301, 7-2-4401, 7-2-4503, 7-2-4504, and 7-2-4734, MCA

Bill killed in Senate Committee on Local Government.

HB 59 - Fabrega - Eliminates an existing distinction in the law between rights of resident and non-resident freeholders in matters of annexation.

Amending 7-2-4303, 7-2-4311, through 7-2-4314, 7-2-4325, 7-2-4501, 7-2-4502, 7-2-4601, 7-2-4606, 7-2-4704, 7-2-4705, 7-2-4710, 7-2-4741, and 7-2-4751, MCA

Repealing 7-2-4321 through 7-2-4324, MCA

Bill died in Senate Committee on Local Government.

CONSERVATION DISTRICTS

Three bills affecting soil and water conservation districts were introduced in the Legislature. Two of these passed and were signed by the Governor.

PASSED:

HB 223[1] - Schultz - Reallocates the coal severance tax by reducing the amount allocated to alternative energy research from 5% to 4 1/2%, and allocates 1/2 of 1% of the tax to conservation district operations. The bill provides for a conservation district account, administration, and rule making.

Amends 15-35-108, MCA

Enacts 76-15-530, MCA

Third reading votes: Senate 43-3 House 90-2

HB 494 - Curtiss - Requires the Board of the Department of Natural Resources and Conservation adequate time for a conservation district to develop a plan to utilize its reservation of water and requires the Department of Natural Resources and Conservation to comply within twelve months each time a request for assistance in

[1]Chapter 479, Montana Session Laws 1981

preparing a water use application is made by a conservation district.

Amending 85-2-310, MCA

Third reading votes: Senate 48-0 House 93-0

KILLED:

HB 126 - Moore - Exempts property within first and second class cities from conservation district tax levies.

Amending 76-15-515 through 76-15-517, MCA

Bill killed in House Committee on Taxation.

EMINENT DOMAIN

Eleven pieces of legislation were introduced concerning the state's right to acquire private land for public use. Public uses which justify the taking of private land include the construction and maintenance of public buildings, the development and maintenance of transportation corridors, and the mining of minerals, except for the surface mining of coal. The many new enactments of the 1981 Legislature in this area deal with substantive as well as procedural matters.

Of the bills which did not pass, one would have allowed the taking over of a private walk place under certain circumstances, while the other would have revised generally the existing law with respect for eminent domain.

PASSED:

HB 66[1] - Bennett - Changes the time when interest is drawn on an award in a condemnation proceeding from the time possession is surrendered to the time when the summons is served. The full amount finally awarded draws interest at the rate of 10% per annum from the date of the service of the summons.

Amends 70-30-302, MCA

Third reading votes: Senate 44-4 House 85-3

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[1]Chapter 257, Montana Session Laws 1981

HB 102 - Manuel (By request of the Department of Fish, Wildlife, and Parks) - Provides for statutory authority to establish a trust account for the operation, development, and maintenance of lands owned by the department.

HB 652[1] - Conroy - Provides for the control and condemnation of land used for disposal of mill tailings from uranium and thorium ore processing. The right of eminent domain may be exercised to decontaminate, for decommission, or to reclaim by-product material and disposal sites in accordance with Title 75, Chapter 3, Part 2. The legislation is effective upon passage and approval by the electors of the State of Montana. (See also Mining.)

HB 766 - Ellison - This bill requires the Board of Land Commissioners approval of certain land acquisition by the Department of Fish, Wildlife, and Parks. Contracts may not be entered into or other obligations incurred until moneys have been appropriated by the Legislature or are otherwise available and, if the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres in size or $100,000 in value, until the Board of Land Commissioners has specifically approved such acquisition. The department may then acquire such areas with the consent of the commission.

Amends 87-1-601, MCA

Third reading votes: Senate 37-12 House 88-8

HB 806 - Manuel (By request of the Senate Committee on Fish and Game) - Increases the amount of money that may be used for operation, development, and maintenance of fishing accesses from 15% to 25% of the moneys derived from the sale of fishing licenses set aside each year.

Amends 87-1-605.

Third reading votes: Senate 48-1 House 82-2

HJR 64 - Jacobsen - Requests an interim study of all aspects of Montana's laws relating to eminent domain.

Third reading votes: Senate 48-0 House 91-2

SB 269[2]- Conover - Revises the methods of payment in eminent domain proceedings. At the defendant's option, payments may be made on installment contract if a fee simple interest in the defendant's

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[1]Chapter 612, Montana Session Laws 1981

[2]Chapter 531, Montana Session Laws 1981

land is taken. If other land is reasonably available, land exchanges of equal or more value than the land being condemned are authorized. If an easement over or through the defendant's property is involved, a single payment may be made or an installment contract may be executed calling for not more than five consecutive annual installments. Also provided for is payment of the current fair market value for property taken, which is established as the price that would be agreed to by a willing and informed seller and buyer.

The bill provides that:

1. the plaintiff is responsible for the control and destruction of noxious weeds until natural grasses are established and noxious weeds have ceased to exist;
2. the plaintiff is also assessed his pro rata share of taxes as of the date of possession or summons, whichever occurs first;
3. the plaintiff shall be assessed for all taxes accruing after the date of possession or summons, whichever occurs first.

Amends 70-30-301, 70-30-302, 70-30-308

Third reading votes: Senate 47-0 House 73-24

SB 276[1] - Galt - Limits the condemnation power of the Department of Fish, Wildlife, and Parks. The department, with the consent of the commission may acquire land and water by purchase, lease, agreement, gift, or devise. The ability to condemn land was deleted from this section. However, the department (with the consent of the commission) may acquire by condemnation, lands or structures for the preservation of historical or archaeological sites that are threatened with destruction or alteration.

Amends 23-1-102, 87-1-209

Third reading votes: Senate 48-2 House 67-31

SB 287[2] - Manley - Provides for the right of first refusal to the former owner of abandoned real property interests acquired for a public use. Whenever one acquires a real property interest for a public use, whether by right of eminent domain or otherwise, and abandons the public use and offers the interest for sale, the seller may sell the interest to the highest bidder at public auction. The original owner or the successor in interest has the option to purchase the interest by offering an amount of money equal to the highest bid. If more than one person claims an equal entitlement, the option may not be exercised. If no bids are received, and the

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[1]Chapter 230, Montana Session Laws 1981

[2]Chapter 440, Montana Session Laws 1981

optionholder indicates he wishes to exercise the option, the seller shall sell the property to the optionholder at appraised price.

Enacts 70-30-321, 70-30-322, MCA

Third reading votes: Senate 46-1 House 96-0

KILLED:

HB 339 - Daily - Allows the state as a municipality to exercise the power of eminent domain to take any workplace which closes and which employed 250 or more persons during the last five years. Permits the state or the affected community to determine how best to utilize the workplace to offset adverse economic impacts of the workplace closure.

Amending 7-1-4124, 7-5-4106, 7-7-4402, and 70-30-102, MCA

Bill killed in House Committee on Business and Industry.

HB 799 - Keedy - Generally revises the law with respect to eminent domain. Among other things it requires that a permit be obtained before property can be taken and requires that taxes on such property be prorated.

Amending 70-30-102, 70-30-104, 70-30-110, 70-30-111, and 70-30-308, MCA

Bill killed in House Committee on Judiciary.

FARMLAND PRESERVATION

Fivebills were considered by the Legislature concerning the preservation of agricultural land in the state. None of these became law.

(See also SB 183)

KILLED:

HB 599 - Sivertsen - Seeks to regulate ownership of agricultural land. Requires certain persons, businesses, and corporations to report ownership of an interest in agricultural land and disallows tax deductions for certain farm-related expenses and capital gains. Also provides tax incentives for the sale of land to small or beginning farmers.

Amending 15-30-101, 15-30-121, and 80-1-102, MCA

Bill killed in House Committee on Taxation.

HB 640 - Lund - Establishes the Montana Agricultural Development Board which is authorized to issue bonds for acquisition of agricultural land as a means of providing assistance to farmers, ranchers, and businessmen engaged in agricultural activities.

Amending 15-30-121, MCA

Bill died in Senate Committee on Taxation.

HB 777 - Donaldson - Changes the "Open-Space Land and Voluntary Conservation Easement Act" to the "Open-Space and Agricultural Land and Voluntary Conservation Easement Act". Seeks to preserve agricultural lands by permitting a public body, including a conservation district, to acquire a right or interest in viable agricultural lands.

Amending 76-6-101 through 76-6-104, 76-6-106, 76-6-203, 76-15-101, 76-15-403, MCA

Bill killed in Senate Committee on Agriculture.

SB 131 - Boylan - Requires the construction and maintenance of fences around improved real property adjacent to agricultural areas for the purpose of preventing damage to livestock and property.

Bill killed in House Committee on Local Government.

SB 163 - Towe - Creates the Montana Agricultural Loan Authority for the purposes of helping beginning farmers acquire land and provides an income tax deduction for certain land sales to beginning farmers.

Bill killed on second reading in House.

FORESTRY

Numerous pieces of legislation dealing with matters of forestry were considered by the Legislature. Two bills and two resolutions received approval.

PASSED:

HB 709 - Neuman - Appropriates $120,000 from the renewable resource development clearance fund account to the Department of Natural Resources and Conservation for the issuance of a grant to the University of Montana for a forest second growth project. Funds are also appropriated for weed control projects, water quality and water use programs, and recycling programs.

Third reading vote: Senate 46-0 House 88-7

HJR 32 - Kanduch - Sends representatives of the State of Montana to the Western States Legislative Forestry Task Force.

Third reading votes: Senate 47-1 House 95-1

SB 258[1] - S. Brown (By request of the Office of the Governor) As part of the Governor's reorganization efforts, this bill transfers forestry functions of the Department of Natural Resources and Conservation to the Department of State Lands. It generally revises the laws to conform to the transfer. Another provision requests that the Governor make recommendations to the members of the 1983 Legislature concerning the transfers necessary in order to coordinate and facilitate the permitting process of those appropriate functions from the Department of State Lands and the Board of Land Commissioners to the Department of Natural Resources and Conservation and from the Department of Health and Environmental Sciences to the Department of Natural Resources and Conservation.

Amends 75-10-203, 76-13-104, 76-13-106, 76-13-109.

Enacts 77-5-103

Third reading votes: Senate 49-0 House 94-0

SJR 11 - B. Brown - Requests the Reagan Administration and Congress to fully fund forest fire protection assistance.

Third reading votes: Senate 49-0 House 85-7

KILLED:

HB 688 - Dussault - Creates two extention forester positions for the purpose of providing information to private forest landowners on such things as marketing, management practices, and protection from insects, disease, and fire.

Bill died in House Committee on Appropriations.

HB 691 - Dussault - Creates one extention forester position for the purpose of providing information to private forest landowners on such things as marketing, management practices, and protection from insects, disease, and fire.

Bill died in House Committee on Appropriations.

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[1]Chapter 529, Montana Session Laws 1981

HJR 50 - Bertelsen - Requests a study of log scaling procedures in Montana to determine the practicality of establishing certification and regulatory procedures for scaling.

Resolution died in House Committee on Natural Resources.

SB 95 - Boylan - Establishes a policy of multiple use management for state forest lands that seeks to permit the preservation of natural resources while allowing the development of compatible uses of such land.

Amending 77-5-101 through 77-5-103, MCA

Bill killed in Senate Committee on Natural Resources.

PLANNING

Two bills dealing with land use planning by governmental units were considered by the Legislature, one of which passed and became law.

PASSED:

SB 399[1]- Manley - Provides for voter approval, amendment, or repeal of a master plan by initiative or referendum. Governing bodies are required to adopt a duplicate resolution of intention to adopt, revise, or reject proposed plans. They may, in their discretion, submit to electors at the next primary or general election or a special election the referendum question. Governing bodies may adopt, revise, or repeal a master plan. Electors may by initiative or referendum do the same.

Amends 76-1-604

Third reading votes: Senate 48-1 House 92-3

KILLED:

SB 236 - Conover - Seeks to clarify the law relating to joint and consolidated planning boards. Authorizes any governing body which has the power to create a planning board to form a joint or consolidated board while reserving to itself certain powers and duties of planning boards.

Amending 76-1-112, MCA

Bill killed in House Committee on Local Government.

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[1] Chapter 541, Montana Session Laws

SAGEBRUSH REBELLION:

Five bills and a resolution dealing with the transition to state ownership of certain public lands presently controlled by the federal government were introduced in the Legislature. The one bill that did pass was specifically concerned with mineral interests rather than public lands in general.

PASSED:

HB 154[1] - Brand (By request of the Department of State Lands) - This bill removes statutory provisions granting interest in state land to the federal government. The following section was removed: "The mineral reservations now applying to sale of lands received through grants from the United States apply to all lands sold to the United States under 77-2-316, but all prospecting and exploration for minerals therein, the mining and removal thereof, and all operations carried on in connection therewith must be carried on in such manner and under such regulations that they will not interfere with the use of the lands for the purposes for which they have been purchased by the United States."

77-2-316 addresses the sale of state lands to the United States. State lands needed for federal construction projects (flood control, river regulation, conservation, irrigation, reclamation, and distribution of electric energy) were subject to the approval of the board and the price limitations of The Enabling Act and the state constitution. This section was repealed by HB 154.

Amends 77-2-304, 77-2-327, 77-2-343

Repeals 77-2-108, 77-2-316

Third reading votes: Senate 48-0 House 76-0

KILLED:

HB 456 - Huennekens - Provides for the retention of Montana public lands in state ownership. No state lands of 320 or more contiguous acres suitable for grazing or agricultural use may pass from public ownership by sale or exchange except in three specific instances.

Amending 77-2-307, MCA

Bill killed in House Committee on State Administration.

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[1]Chapter 157, Montana Session Laws, 1981

HB 836 - Sivertsen - Appropriates $200,000 from the general fund for the biennium ending June 30, 1983 to the Department of State Lands for the purpose of implementing SB 123.

Bill died in House Committee on Appropriations.

HJR 13 - Hurwitz - Endorses and supports the efforts of the western states known as the 'Sagebrush Rebellion", to gain control of unappropriate public lands lying within their boundaries.

Resolution died in House Committee on Natural Resources.

SB 123 - Etchart - Provides for the transition to state ownership and control of that public land, water, and minerals including oil and gas, which is presently unappropriated and lies within the boundaries of the state, pending congressional and federal judicial approval.

Bill killed in House Committee on Natural Resources.

SB 266 - Lee - Prohibits the United States government from acquiring by purchase or condemnation, real property within the boundaries of the state without the prior approval of the Legislature. Acquisitions of 5 acres or less are exempted.

Bill killed in second reading in Senate.

SPECIAL DISTRICTS

The 1981 Legislature considered an abundance of bills dealing with special districts including special improvement districts, rural improvement districts, grazing districts, sanitary-sewer districts, rodent districts, refuse districts, business districts, and municipal facility districts.

A. Business

KILLED:

SB 339 - See Eminent Domain Section.

B. Grazing

PASSED:

SB 136[1] - Etchart - Increases the fee the Department of Natural Resources and Conservation may impose against the state grazing districts from 10¢ per animal unit to 15¢ per animal unit. The

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[1]Chapter 34, Montana Session Laws, 1981

appropriate section is amended to read: "the department may impose fees against the several state grazing districts of the state in an amount not in excess of 15 cents per animal unit, based on the number of animal units per year for which the district grants permits..."

Amends 76-16-106

Third reading votes: Senate 47-0 House 81-14

C. Municipal Facility

KILLED:

HB 737 - Dussault - Authorizes the establishment of municipal facility districts by petition, hearing and election. Also allows the issuance of bonds to finance the operation of these districts and authorizes the levy of 3 mills for the establishment and operation of municipal facilities.

Bill killed on second reading in House.

D. Refuse

PASSED:

SB 115[1]- McCallum - This legislation clarifies and establishes notice and protest procedures relating to fees for refuse disposal districts.

Amends 7-12-2183

Third reading votes: Senate 48-0 House 98-0

E. Rodent Control

PASSED:

HB 265[2]- Ellison - Provides for the creation and operation of rodent control districts. The bill authorizes and provides for petition procedures, hearings and objection, and other procedures for such districts. It also provides for the administration, financing, and implementation of the program.

Enacts 7-22-2207 through 7-22-2216, 7-22-2221 through 7-22-2226, 7-22-2231 through 7-22-2233

Repeals 7-22-2201 through 7-22-2206

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[1]Chapter 464, Montana Session Laws, 1981

[2]Chapter 391, Montana Session Laws, 1981

Third reading votes: Senate 47-1 House 88-7

F. Rural Improvement

PASSED:

HB 351[1] - Kessler - Clarifies the authority of municipal and county governing bodies and provides for the administration of rural special improvement districts when the property has become part of an incorporated city or town. When a special improvement district becomes part of an incorporated city or town, the transfer of operation, control, and management is subject to a properly executed agreement between the county commissioners and the municipality and must be approved by both governing bodies.

Enacts 7-12-2126

Third reading votes: Senate 50-0 House 94-0

SB 291[2] - Hager - Authorizes loans from the rural special improvement district revolving fund to fund emergency repairs in a rural special improvement district. Whenever any rural special improvement district maintenance fund does not have sufficient money to pay the cost of emergency repairs, the board of county commissioners by order or resolution may loan money from the revolving fund to that district maintenance fund. The loan must be repaid in annual installments in not more than 3 years. In no event may the loans interfere with the payment of bonds or warrants. The loan must be repaid by an assessment as provided by 7-12-2120 if other funds are not available. If there are not sufficient funds in the revolving fund to make the loans without interfering with the payment of bonds or warrants, then the loans may not be made.

Third reading votes: Senate 48-0 House 98-0

KILLED:

HB 229 - Sales - Removes the liability of taxable property in a county for the payment of principal and interest on rural improvement district bonds issued after June 30, 1981.

Bill killed in House Committee on Local Government.

G. Special Improvement

PASSED:

SB 96[3] - VanValkenburg - Provides funds for SID revolving funds by allowing 5% of the improvement cost to be an initial incidental

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[1]Chapter 146, Montana Session Laws, 1981

[2]Chapter 339, Montana Session Laws, 1981

[3]Chapter 435, Montana Session Laws, 1981

expense to be deposited in the revolving fund. The costs of improvements may not exceed 5% of the principal amount of any bonds or warrants to be issued, which shall be deposited in the revolving fund. City or town councils may include in the cost of the improvement to be defrayed from the proceeds of the bond or warrants an amount up to 5% of the principal amount of the bonds or warrants and deposit it in the revolving fund. Whenever there is an amount in the revolving fund in excess of the amount deposited in the fund under the 5% provision, and in excess of the amount which the council deems necessary for payment or redemption of maturing bonds or warrants or interest thereon, the council may:

(a) order transfer of excess to the general fund: or
(b) use the excess amount for the purchase of property at sales for delinquent taxes or assessments, or both.

Any funds without interest deposited in the revolving fund under the 5% provision less the amount of any loan to the district fund not repaid may be returned to the owners in direct proportion to the original assessment on each piece of property. A municipality may also transfer the funds placed in the revolving fund as a result of the 5% provision to the general fund after the final payment of the district's bonds or warrants are paid.

Amends 7-12-4169, 7-12-4222, 7-12-4227

Enacts 7-12-4229

Third reading votes: Senate 46-0 House 92-4

SB 221[1] - VanValkenburg - Generally revises and clarifies the law relating to SID's. Pertinent changes require that payment of special assessments be subject to the same interest and penalties for delinquent property taxes under 15-16-102 (Time for payment--penalty for delinquency). Bonds and warrants drawn against SID funds are payable annually or semi-annually at the discretion of the governing body. Assessments made for SID's in cities and towns are exempted from 15-16-103 (Special assessments for special improvements--time for payment). Assessments made for SID's, the bonds for which annual interest payments have been specified and that were issued after July 1, 1981, are payable as follows:

(a) one-half on or before November 30 of each year;
(b) one-half on or before May 31 of each year.

The collection of special assessments or installments made for special improvements shall be had and made as provided by 7-12-4181 (Collection of district assessments by county clerk--certification).

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[1]Chapter 527, Montana Session Laws, 1981

Amends 7-12-4188, 7-12-4202, 7-12-4203, 15-16-102, 15-16-103

Third reading votes: Senate 45-0 House 92-1

SB 345[1] - Halligan - Allows rural and city SID's to extend within or outside city boundaries, respectively, under certain circumstances. The board of county commissioners may create SID's covering projects abutting the city limits and include properties inside the city where the rural improvement district abuts and benefits that property. Those persons inside the city may be included in the rural improvement district only if 60% approve. Property outside the city must be treated the same as property inside the city limits.

Amends 7-12-2102, 7-12-4102

Third reading votes: Senate 43-3 House 79-19

SB 382 - Turnage - Clarifies and revises the issuance and payment of special improvement district and rural special improvement district bonds. The bonds are made payable from assessments on SID's and are not a general obligation of the county. The bill restricts the levying of a tax to provide funds for the revolving fund for instances when the revolving fund does not exceed 5% of the outstanding bonds. It requires that money in the revolving fund may not be transferred to the general fund if the balance in the revolving fund is less that 5% of the outstanding bonds.

Amends 7-12-2170, 7-12,2182, 7-12-2186, 7-12-4202, 7-12-4222, 7-12-4227, MCA

Third reading votes: Senate 50-0 House 99-0

KILLED:

HB 228 - Sales - Removes the liability of taxable property in a city or town for payment of principal and interest on special improvement district bonds issued after June 30, 1981.

Bill killed in House Committee on Local Government.

HB 447 - O'Hara - Provides lot and taxable valuation for the assessment of costs for special improvement districts.

Amending 7-12-4162, MCA

Bill killed in Senate Committee on Taxation.

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[1]Chapter 342, Montana Session Laws, 1981

SB 581 - Donaldson - Seeks to clarify existing law relating to special improvement district assessments while providing for semi-annual assessments.

Amending 7-12-4188, MCA

Bill died in Senate Committee on Taxation.

SB 383 - Norman - Decreases from 50 percent to 40 percent the ownership representation necessary to protest the creation of a special improvement district or a rural improvement district.

Amending 7-12-2112 and 7-12-4113, MCA

Bill died in House Committee on Local Government.

SB 447 - Aklestad - Allows owners of land in a proposed special improvement district to petition for an election on the question of whether or not the district should be established.

Amending 7-12-4110, 7-12-4112, 7-12-4114, and 7-14-4713, MCA

Recodifying 7-12-4113, MCA

Bill died in Senate Committee on Taxation.

H. Sanitary and Storm Sewer

PASSED:

HB 424[1] - D. Brown - Raises the ceiling rates charged by metropolitan sanitary and/or storm sewer districts. Due to a coordination section, this bill became void upon passage of HB 790.

HB 562 - Thoft - Revises and simplifies the process of adding contiguous land in an unincorporated area to a sewer district when the board of directors determines there is excess capacity in the system. If the board of directors determines that a district has a sewer facility with a capacity greater than required to meet the needs of the current district, it may by ordinance, upon petition of contiguous property owners, expand the district to include land in an unincorporated area, to the extent of excess capacity, without complying with the usual procedures for establishment of a district. However, if the board determines that an election should be held or if 40% or more of the members of the district petition for an election, compliance with the usual procedure is required.

[1]Chapter 403, Montana Session Laws, 1981

Amends 7-13-2341

Third reading votes: Senate 49-0 House 95-0

HB 790[1] - Daily - Places sanitary and/or storm sewer districts under the regulatory authority of the Public Service Commission and subject to the provisions of HB 765. The passage of HB 765, in turn, voids the major provisions of HB 790.

Amends 7-13-141, 7-13-144

Third reading votes: Senate 48-1 House 91-0

SUBDIVISIONS

Six bills dealing with subdivisions were passed by the Legislature and signed by the Governor. They remove authority of the Department of Commerce to prescribe requirements for local subdivisions, require certification that no delinquent taxes exist on property proposed to be subdivided, provide for joint hearings when a proposed subdivision is also proposed to be annexed to a municipality, increase fees charged for review of subdivisions, allow for an extension of the approval period for a preliminary plat, and require subdividers to certify that consent to subdivide a property has been given by record landowners and lienholders.

Two bills that did not pass legislation would have exempted "minor subdivisions" from full-scale public interest review and modified local governmental review of subdivisions in order to restrict the use of exemptions.

PASSED:

HB 179[2] - Donaldson - Increases the lot fees charged for services rendered in the review of subdivisions from $25 to $30, and allows more reimbursement (not less than $15) to local governments performing subdivision review functions.

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[1]Chapter 419, Montana Session Laws, 1981

[2]Chapter 553, Montana Session Laws, 1981

Amends 76-4-105, 76-4-128

Third reading votes: Senate 41-9 House 80-18

HB 661[1] - D. O'Hara - Allows for an extended approval period of more than one year for a preliminary plat to allow for approval of phased-in development. "The governing body may, at the request of the subdivider, extend its approval for no more than one calendar year, except that the governing body may extend its approval...if that approval period is included as a specific condition of a written agreement...according to 76-3-507."

Amends 76-3-610

Third reading votes: Senate 49-0 House 97-1

SB 33 - Goodover (By request of the Code Commissioner) This bill requires a subdivider to submit with the final plat a certificate of a title abstractor showing the names of the owners of record of the land to be subdivided and the names of lienholders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record against the land. The governing body may provide for the review of the abstract by the county attorney where the land lies in an unincorporated area or by the city attorney when the land lies within the city limits.

Amends 76-3-612

Third reading votes: Senate 50-0 House 90-6

SB 35 - S. Brown (By request of the study committee on annexation laws) This bill amends the Subdivision and Platting Act to provide for joint hearing and coordination of requirements for annexation whenever possible. The amendments read as follows:

"When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate the subdivision review and annexation procedures to minimize duplication of hearing, reports and other requirements whenever possible."

"When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the preliminary plat and annexation whenever possible."

Amends 76-3-601, 76-3-605

Third reading votes: Senate 49-0 House 87-7

SB 368[1] - Elliott - Requires certification by the county treasurer that there are no delinquent taxes outstanding on property proposed to be subdivided. Final plats are approved by the governing body when the "county treasurer has certified that no real property taxes assessed and levied on the land to be subdivided are delinquent."

SB 405[2]- Regan - Under this bill the Department of Commerce will no longer be mandated or authorized to prescribe minimum requirements for local subdivision requirements. Nor will the Department of Commerce provide for review of preliminary plats by state agencies. The bill replaces administrative rules with statutory requirements which mandate that local regulations must at a minimum:

(1) require an environmental assessment;
(2) establish procedures for submission and review of subdivision plats;
(3) prescribe preliminary and final plat form and content:
(4) provide for identification and prohibition of unsuitable subdivisions;
(5) prohibit subdivisions in floodways;
(6) prescribe standards for:
    (a) design of lots, streets, and roads;
    (b) grading and drainage;
    (c) water supply, sewage and solid waste disposal consistent with 76-4-104;
    (d) the location and installation of utilities.
(7) provide administration procedures for park and open space requirements; and,
(8) provide for review of preliminary plats.

Amends 76-3-504, 76-3-603, 76-4-129

Repeals 76-3-502, 76-3-508

Third reading votes: Senate 50-0 House 98-0

KILLED:

HB 192 - Moore - Modifies and redefines the public interest criteria for local government review of subdivisions.

Amending 76-3-608, MCA

Bill killed in third reading in Senate.

HB 715 - Lory - Substantially revises the Montana Subdivision and Platting Act and related land use statutes and exempts "minor subdivisions" from full scale review. "Minor subdivision" is defined as a subdivision containing five or fewer parcels where proper access to all lots is provided and where, if park dedication is required, it shall be met by cash in lieu of land donation.

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[1]Chapter 273, Montana Session Laws, 1981

[2]Chapter 236, Montana Session Laws, 1981

Amending 76-1-606, 76-3-103, 76-3-104, 76-3-201, 76-3-207, 76-3-504, 76-3-505, 76-3-508, 76-3-601, 76-3-604, 76-3-605, 76-3-609, MCA

Repealing 76-3-210, MCA

Bill killed in Senate Committee on Local Government.

WEED CONTROL

Two resolutions were passed in the Senate requesting federal action and assistance in the area of weed control.

PASSED:

SJR 16 - Senate Committee on Agriculture, Livestock, and Irrigation - Requests Congress to amend Public Law 90-583, the Carlson-Foley Act of 1968, to require the federal government to implement a management program for the prevention, control, and containment of noxious plant species on lands administered by federal agencies.

Third reading votes: Senate 49-0 House 93-0

SJR 18 - Senate Committee on Agriculture, Livestock, and Irrigation - Requests Congress to increase weed control and management programs on federal, state, and private lands and to allow federal land management agencies to enter into cooperative agreements with state and local weed management agencies.

Third reading votes: Senate : 49-0 House 89-4

ZONING

Six pieces of legislation concerned with zoning were introduced, two of which were passed and became law. The new enactments authorize the creation of a citizen advisory committee to advise the county commissions on proposed changesto zoning regulations and requires land development and use by governmental agencies to be subject to a public hearing. The bills that failed to pass would have revised the procedures for adoption of zoning regulations and boundaries, exempted planned unit development districts from certain provisions of the zoning regulations, increased landowner control of zoning, and decreased the time period required for hearings on municipal zoning laws.

PASSED:

HB 575[1] - Kitselman - Authorizes the county commissioners to create a citizen advisory committee to advise the county commissioners

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[1]Chapter 462, Montana Session Laws, 1981

on proposed amendments to zoning regulations. The commissioners may appoint a zoning commission composed of at least five citizen members appointed at large from the zoning district. The bill also provides for the adoption of bylaws and hearing procedures.

Enacts 76-2-220

Third reading votes: Senate 47-3 House 93-4

HB 594 - Kemmis - Requires land development and use by governmental agencies to be subject to a public hearing.

Third reading votes: Senate 41-9 House 86-11

KILLED:

HB 143 - Kitzelman - Revises the procedures for adoption of zoning regulations and boundaries. Owners of real property in a proposed zoning district are given a 30-day period to make written protest to the creation of zoning districts or the adoption or amendment of zoning regulations after notice thereof has been given by the board of county commissioners.

Amending 76-2-205, MCA

Bill died in House Committee on Local Government.

HB 673 - Lory - Exempts planned unit development districts from application of the protest provision of the statute governing alternation of zoning regulations.

Amending 76-2-305, MCA

Bill killed in House Committee on Local Government.

SB 133 - Manley - Requires that interim zoning measures proposed by a board of county commissioners be approved by a majority of the city-county planning board. Also increases landowner control of zoning by requiring landowner approval before zoning measures are adopted by the board of county commissioners.

Amending 76-2-202, 76-2-205, 76-2-206, and 76-2-223, MCA

Bill killed in House Committee on Local Government.

SB 379 - Thomas - Decreases the number of days required for hearings on municipal zoning laws and municipal interim zoning ordinances.

Amending 76-2-303 and 76-2-306, MCA

Bill died in Senate Committee on Local Government.

OTHER

A. ALL-TERRAIN VEHICLES

KILLED:

HB 633 - Waldron - Establishes a method of certification and registration of all-terrain vehicle as a means of theft provention and fixes a fee on these vehicles in lieu of taxation. Also establishes a nonresident temporary use permit.

Amending 15-6-138, MCA

Bill died in House Committee on Taxation.

B. LAND ACQUISITIONS--Department of Fish, Wildlife and Parks

KILLED:

HB 251 - Curtiss - Requires legislative approval of land acquisitions by the Department of Fish, Wildlife and Parks for areas or sites in excess of 100 acres of $10,000 in value.

Amending 23-1-102 and 87-1-209, MCA

Bill died in House Committee on Fish and Game.

(See also SB 276; Mining HB 871; Wildlife HJR 47)

C. MUNICIPAL BOND BANK

KILLED:

SB 476 - Towe - Creates a Montana Municipal Bond Bank and authorizes the bank to lend money to municipalities and school districts through the purchase by the bank of municipal securities. Also authorizes the bank to issue bonds and notes and permits the Board of Investments to purchase such bonds while removing interest rate ceilings and other restrictions from the boards of political subdivisions for purpose of the act.

Amending 17-6-103, MCA

Bill killed in Senate Committee on Taxation.

D. NUISANCE SUITS

PASSED:

SB 29 - Hager - Prohibits persons who establish residence or businesses near existing agricultural or farming operations, places, establishments, or facilities from bringing nuisance suits based on objection to the normal operation of those agricultural activities.

Amends 27-30-101, 45-8-111

Third reading votes: Senate 47-0 House 85-11

E. SOIL SURVEY PLAN

KILLED:

HB 605 - Thoft - Appropriates $525,000 each year for fiscal years 1982 and 1983 from the resource indemnity trust fund to the Department of Natural Resources and Conservation for the implementation of the soil survey plan.

Bill died in House Committee on Appropriations.

F. TAXATION

PASSED:

SB 183 - Hammond - Repeals the rollback tax on agricultural land which was originally designed to help keep agricultural land in production and declares certain taxes discharged. Pertinent changes include the following:

"Separation or split-off of a part of the land which is being valued, assessed, and taxed...for use other than agricultural shall subject the land so separated to reclassification by the department..."

"All rollback taxes unpaid or paid under protest...that constitute a lien on real property in the state are discharged and stricken from the respective tax records."

Amends 15-7-207, 15-7-209, 15-7-210, MCA

Repeals 15-7-204, 15-7-205, 15-7-211, 15-7-214, 15-7-215, MCA

Third reading votes: Senate 49-1 House 92-0

M I N I N G

COAL

The majority of legislation introduced in the mining area last session dealt with coal. In total, 19 bills were considered, eight of which passed and became law. The new enactments:

.. specify certain requirements in coal lease agreements;

.. appropriate funds for federal lobbying efforts in support of Montana's Coal Severance Tax;

.. appropriate funds from the Coal Tax Trust Fund for the reconstruction of primary and secondary highways;

.. allocate a portion of the coal severance tax funds to cultural and aesthetic projects;

.. amend the definition of "failure to conserve coal" in the Strip and Underground Mine Reclamation Act;

.. allow the sale of coal to foreign persons;

.. extend for two years the deadline for encumbering coal area highway reconstruction funds; and,

.. prescribe the review of projects financed by coal severance tax funds.

The defeated bills would have:

.. appropriated funds for road repairs and improvements in coal impacted areas;

.. clarified certain provisions of the Coal Severance Tax Act;

.. appropriated funds for the study of coal mining impacts on water quality and quantity;

.. required that Coal Tax Trust funds be invested in private Montana financial institutions;

.. replaced the Coal Board with a Community Development Board;

.. appropriated Coal Severance Tax Trust funds to the MHD program;

.. limited Coal Board grants to certain qualified local governmental units;

.. revised coal severance tax rates;

.. altered, generally, the allocation of coal severance tax money; and,

.. established a method of determining coal development impact costs to local governments.

(See also Land Use HB 223)

PASSED:

HB 533[1] - Huennekens - Removes the requirement that the value of state-owned coal be defined as the value before taxes for royalty purposes. When the Board of Land Commissioners leases state land for coal mining with the royalty to the State of Montana stated as a percentage of the value of the coal, the contract must define "value" as the contract sales price. Contract sales price is either the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or a price imputed by the department.

Repeals 15-35-109, MCA

Third reading votes: Senate 46-0 House 96-0

HB 828[2] - Fagg (By request of the Governor's Office) - Appropriates $500,000 from the general fund to the Governor's Office for the purpose of advocating the state's opposition to federal legislation that would prohibit or diminish the state's right to levy a 30 percent tax on coal mined within Montana's borders. Also creates a legislative oversight committee to oversee the use of these funds. The Governor is required to seek the advise of this committee before setting any policy regarding the protection of the coal severance tax.

Third reading votes: Senate 45-4 House 89-5

HB 868[3] - Shontz - Appropriates $2,000,000 for each of the fiscal years 1982 and 1983 from the interest on the Coal Tax Constitutional Trust Fund for the reconstruction of highways on the primary and secondary systems. In addition, $17,150,000 is appropriated to the highway earmarked account for the biennium ending June 30, 1983 for that portion of the general fund received from the oil severance tax and the interest on the Coal Tax Constitutional Trust Fund for general highway department operating.

Third reading votes: Senate 30-18 House 82-4

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[1]Chapter 407, Montana Session Laws 1981

[2]House Bill 828

[3]House Bill 868

HB 871[1] - Moore - Provides that 2-1/2 percent of the coal severance tax is to be credited to a trust to be used for park acquisition, protection of works of art in the State Capitol, and funding of cultural and aesthetic projects.

Appropriates $750,000 to the Department of Fish, Wildlife, and Parks from the coal tax park acquisition account. The department is required to pay appraised value or the amount appropriated, whichever is less, for each park site project. Each appraisal is reviewed by a qualified review appraiser.

Also appropriates $641,000 to the Montana Historical Society for cultural and aesthetic projects.

Third reading votes: Senate 37-6 House 86-5

SB 244[2] - Graham (By request of the Department of State Lands) - Amends the Strip and Underground Mine Reclamation Act to comply with the Federal Strip Mine Act. The policy and purpose of the Strip and Underground Mine Reclamation Act is to provide adequate remedies for the protection of the environmental life support systems from degredation and to prevent unreasonable depletion and degredation of natural resources. The law provides for the orderly development of coal resources through strip or underground mining to assure the wise use of resources and prevent the failure to conserve coal. The law requires the legislature to provide for proper administration, enforcement, standards, and requirements to achieve these objectives.

The definition of "failure to conserve coal" is now amended to read: "The non-removal or non-utilization of minable and marketable coal by an operation, provided that the non-removal or non-utilization of minable and marketable coal in accordance with reclamation standards established by the department shall not be considered failure to conserve coal."

Amends 82-4-203, 82-4-221, 82-4-222, 82-4-251, 82-4-254, MCA

Third reading votes: Senate 47-2 House 89-0

SB 367[3] - Keating - Allows the sale to foreign persons of coal mined under leases from the Board of Land Commissioners by repealing an existing prohibition against same.

Repeals 77-3-315

Third reading votes: Senate 43-4 House 75-18

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[1]House Bill 871

[2]Chapter 437, Montana Session Laws 1981

[3]Chapter 538, Montana Session Laws 1981

SB 422[1] - Graham - Extends for two years the deadline to expend or encumber coal area highway reconstruction funds appropriated prior to June 30, 1979; the deadline is now June 30, 1983. In addition, the Department of Highways is required to prepare a special construction program for the reconstruction of deficient sections of highways in the area designated as the Eastern Montana Coal Field Economic Growth Center.

Amends Section 2 of Chapter 540, Laws of 1977

Third reading votes: Senate 50-0 House 96-3

SB 487[2] - D. Manning - The Coal Tax Oversight Subcommittee of the Revenue Oversight Committee reviews programs financed by coal severance tax funds and considers any matters relating to coal taxation. The subcommittee is required to report and make recommendations to the Revenue Oversight Committee. SB 487 continues this subcommittee for the biennium ending June 30, 1983.

Amends Section 2, Chapter 619, Laws of 1979

Third reading votes: Senate unknown House 88-3

KILLED:

HB 29 - Harrington - Appropriates $10,000,000 from the Constitutional Trust Fund earnings account to the Department of Highways for the fiscal year ending June 30, 1983, for the purpose of conducting highway repairs, improvements, and construction in coal impacted areas.

Bill died in House Committee on Appropriations.

HB 121 - Conroy - Seeks to clarify provisions of the Coal Severance Tax Act related to the allocation of severance tax collections to the local impact and education trust fund account. Also provides for the disposition and investment of unexpended balances in the local impact fund account.

Amends 15-35-108, 90-6-202, 90-6-205, 90-6-207, 90-6-211, MCA

Bill killed in Senate Committee on Taxation

HB 570 - Holliday - Appropriates $200,000 to the reclamation division of the Department of State Lands for the biennium ending June 30, 1983 from the Resource Indemnity Trust Interest Account for the purpose of conducting a study of the consequences of coal mining and reclamation operations on quantity and quality of water in surrounding groundwater systems.

Bill died in House Committee on Appropriations.

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[1]Chapter 542, Montana Session Laws 1981

[2]Chapter 587, Montana Session Laws 1981

HB 762 - Kemmis - Requires the Department of Commerce to make short term investments of Coal Tax Trust Funds in Montana banks and lending institutions which have a record of investing in Montana businesses. Establishes criteria the department must use in selecting banks and lending institutions in which to invest.

Bill died in Senate Committee on Taxation

HB 791 - Bardanouve - Replaces the Coal Board with a Community Development Board empowered to make grants and loans to local government units for capital projects. Reallocates the distribution of coal severance tax funds and a portion of other taxes collected on natural resources to a Community Development account.

Amends 15-35-108, 15-30-112, 15-37-207, 15-59-108, 20-9-343, 85-1-332, 90-6-202, 90-6-219, MCA

Repeals 2-15-1104, 90-6-201, 90-6-203 through 90-6-209, and 90-6-211, MCA

Bill died in House Committee on Taxation

HB 869 - Meyer - Appropriates $2,850,000 from the principal of the Coal Severance Tax Trust Fund to the Department of Commerce for the biennium ending June 30, 1983 for the purpose of entering into a contract with the prime operating contractor on the Montana MHD facility in order to accelerate the MHD test program schedule. The appropriation is contingent upon the Congressional funding of the national MHD program at a level sufficient to maintain an operation and testing program at the Montana facility.

Bill killed in House: Senate amendments rejected

SB 13 - Towe - Limits Coal Board grants to only those local governmental units that may have demonstrated at least a minimum level of local effort in meeting needs attributed to the impact from coal development.

Amends 90-6-206, MCA

Bill killed on third reading in Senate

SB 206 - Towe - Revises both the surface and underground mining coal severance tax rates.

Amends 15-35-103, MCA

Bill died in Senate Committee on Taxation

SB 208 - Towe - Authorizes the Coal Board to award loans as well as grants from the local impact and education trust fund account to local governmental units and state agencies to assist local

government units in curbing the local impact of coal development.

Amends 90-6-205, 90-6-206, 90-6-208, MCA

Bill killed on third reading in House

SB 260 - Goodover - Alters the allocation of coal severance tax money by increasing deposits into the Constitutional Trust Fund and the general fund. Also amends substantively and procedurally the powers of the Coal Board to issue grants to local governmental units and state agencies.

Amends 15-35-108, 90-6-202, 90-6-205, 90-6-207, 90-6-211, MCA

Repeals 22-3-112, 23-1-108, 90-1-108, 90-2-101 through 90-2-128, 90-4-101 through 90-4-107, and 90-6-210, MCA

Bill killed in Senate Committee on Taxation

SB 207 - Towe - Establishes a method to determine coal development impact costs to local governmental units. Also provides for funding to local governmental units from the income of the Constitutional Trust Fund account when money in the local impact and education trust fund is insufficient to fully fund coal development impact costs.

Bill died on second reading in House

HARD ROCK

Although only five pieces of legislation directly affecting hard rock mining were considered by the 1981 Legislature, these bills received a great deal of attention and stirred much controversy. Two of the three measures that passed addressed the heated issue of socio-economic impacts of hard rock mining. They created a quasi-judicial Hard Rock Mining Impact Board to assist local governments in dealing with such impacts and requested an interim committee to examine and study this broad issue of hard rock mining and its related impacts. The third bill merely revised procedural requirements relative to existing taxes on mining.

Of the bills that did not pass, one sought to create a Hard Rock Mining Impact Board similar in function to the board that was created by the above mentioned bill that was adopted. The fact that this bill would have also imposed a severance tax on hard rock mining in general lead to its demise. The other less controversial piece of legislation which did not pass would have provided grants to local governments from revenue generated by an existing tax on mining to alleviate some of the adverse impacts of hard rock mining.

PASSED:

HB 629[1] - Harrington - Requires miners to file annual statements of the gross metal yield and value of ore extracted from each mining property being developed.

Amends 15-23-802, 15-37-104, MCA

Third reading votes: Senate 50-0 House 94-1

HB 718[2] - Ellison - Creates a quasi-judicial Hard Rock Mining Impact Board, and establishes a system to assist local governmental units in meeting the initial financial impact of large scale mineral development. The board is authorized to award grants to impacted units of local government on the basis of need, availability of funds, and the extent of local effort in meeting its needs.

Mineral developers are required to submit an economic impact plan to affected counties and the board describing the economic impact a development will have and are required to pay all of the increased capital and net operating cost to local government units.

Amends 15-16-201, 82-4-335, MCA

Enacts 2-15-1822, 90-6-301 through 90-6-310, MCA

Third reading votes: Senate 39-10 House 87-10

HJR 66 - D. Brown - Requests an interim committee be assigned to determine the most effective means of responding to social and economic impacts resulting from increased development of hard rock minerals.

Third reading votes: Senate 39-7 House 90-3

KILLED:

HB 776 - Harrington - Provides grants to local government units from the metal mines license tax to alleviate cyclical economic hardship created by the fluctuations in metal mining. Creates a Metal Mines Board to administer the grants which are to be awarded to local government units on the basis of need, degree of adverse economic impact on the community from local mining, and availability of funds.

Bill killed in Senate Committee on Finance and Claims

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[1]Chapter 288, Montana Session Laws 1981

[2]Chapter 617, Montana Session Laws 1981

SB 344 - Towe - Creates a Hard Rock Mining Impact Board with the power to award grants to local governments as a means of mitigating the socio-economic impacts of large scale mineral development in those areas. Funds for the grants are derived from the imposition of a severance tax on large scale hard rock mineral development. Those development projects which produce more than $1 million worth of metals are defined as "large scale".

Amends 90-6-205, MCA

Bill died in House Committee on Taxation

SEVERED MINERAL INTERESTS

Three bills dealing specifically with severed mineral interests were considered but failed to gain the approval of the Legislature. These all dealt with procedural matters relating to adverse possession and abandonment of severed mineral interests.

KILLED:

HB 758 - Roush - Provides for the termination of certain severed mineral interests owned by persons other than the surface owner by establishing a method of abandonment of such interests.

Bill killed in Senate Committee on Judiciary

SB 45 - Towe - Requires the recording and annual registration of mineral interests when claimed by someone other than the surface interest owner. Also provides for adverse possession of a severed mineral interest by one who establishes ownership of the surface interest for a continuous period of five years beginning after July 1, 1981, if the owner of the severed mineral interest has not complied with the recordation and annual legislative registration.

Amends 15-6-131, 15-8-111, 20-19-411, 20-28-109, MCA

Bill killed in Senate Committee on Judiciary

SB 478 - Ochsner - Creates a presumption that a mineral interest in land is abandoned if the mineral interest generates an intangible property interest and the intangible property interest remains unclaimed for seven years.

Bill killed in Senate Committee on Judiciary

OTHER/GENERAL

PASSED:

HB 277[1] - Seifert - Provides for the imposition of civil penalties

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[1]Chapter 113, Montana Session Laws 1981

of $100 - $1,000 per day for the violation of any provision of the Open-Cut Mining Act. The Open-Cut Mining Act provides for the reclamation and conservation of land subjected to open-cut mining.

Repeals 82-4-435

Enacts 82-4-441

Third reading votes: Senate 50-0 House 95-1

HB 652[1] - Conroy - Removes the prohibition of disposal of radioactive wastes in the state including mill tailings from uranium and thorium ore processing plants (amends Section 1 of Initiative 84). Also provides for the control and condemnation of land used for disposal of mill tailings from uranium and thorium ore processing, and revises the laws concerning radiation control.

Rule-making authority is given to the Department of Health and Environmental Sciences or the Department of State Lands to regulate the processing of exempt ores. In regulating this processing, the department is directed to take such measures as are necessary to protect the public's health.

Subject to referendum in 1982.

Amends 75-3-102 through 75-3-104, 75-3-201, 75-3-202, 75-3-302, 75-3-303, 70-30-102, Section 1 of Initiative 84

Enacts 75-3-205 through 75-3-208

Third reading votes: Senate 40-7 House 90-2

HJR 21 - Seifert - Requests the Congress of the United States to enact amendatory legislation to return to states the right to regulate or participate in regulating mines relating to mine safety and health standards.

Third reading votes: Senate 28-21 House 60-31

HJR 40 - Brand - Urges the United States Congress to amend the Federal Land Policy and Management Act of 1976 to delete certain provision relating to recording and abandonment of mining claims and certain enforcement provisions.

Third reading votes: Senate 46-1 House 87-10

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[1]Chapter 612, Montana Session Laws 1981

SB 62[1] - Mazurek (By request of the Department of State Lands) - Provides that fines, fees, and penalties paid to the Department of State Lands under the Mine Siting and Reclamation Acts are credited to the general fund.

Amends 82-4-113, 82-4-240, 82-4-241, MCA

Third reading votes: Senate 45-0 House 94-5

SB 376[2] - S. Brown - Revises and clarifies the Montana Major Facility Siting Act and exempts facilities subject to the Montana Strip and Underground Mine Reclamation Act. "Facility" means: "except for crude oil and natural gas refineries and facilities and associated facilities designed for or capable of producing, gathering, processing, transmitting, transporting, or distributing crude oil or natural gas, and those facilities subject to the Montana Strip and Underground Mine Reclamation Act...."

Amends 75-20-104, MCA

Third reading votes: Senate 48-0 House 87-6

KILLED:

HB 465 - Asay - Broadens the definition of "preparatory work" in the Strip and Underground Mine Siting Act to include construction of railroads.

Amends 82-4-103, MCA

Bill killed in House Committee on Natural Resources

SB 80 - Turnage - Specifically exempts peat mining from coverage of the Hard Rock Mining Act.

Amends 82-303, MCA

Bill vetoed by Governor

SB 205 - S. Brown - Allows the Department of State Lands to provide the Department of Health and Environmental Sciences with information contained in mining permit applications or otherwise obtained from miners, if the Department of State Lands determines that a violation of air or water quality laws or rules may exist.

Bill killed in Senate Committee on Natural Resources.

SB 278 - Graham - Prohibits the Department of State Lands from granting a mining permit to an applicant when the proposed area of land to be mined includes land that is ecologically fragile in the sense that the hydrologic system associated with the land

once affected would have a significant adverse impact on a significant number of the members of species of wildlife or domestic livestock present in the area.

Amends 82-4-227, MCA

Bill killed on second reading in House

(See also Energy HB 426; Land Use HB 652)

O I L A N D G A S

TAXATION

The majority of bills in the 1981 Legislature that dealt with oil and gas were specifically in the area of taxation. Five of these bills were approved and became law. They provide that net proceeds tax be levied only on oil and gas sold during the taxable year, allow federal excise taxes to be deducted when computing the net proceeds tax, fix percentage rates to be used in computing the severance tax on oil and gas production, and extend an existing exemption from the severance tax on oil and gas produced at great depths.

Two bills that did not pass would have allocated a portion of the oil and gas severance tax proceeds for road and bridge work in oil producing counties and allowed the deduction of indirect production expenses in computing the net proceeds tax. A resolution urged the federal government to modify the windfall profit tax on oil and gas in order to stimulate domestic production.

PASSED:

HB 552[1] - Roush - It is the public policy of the state to promote the production of natural gas within the state in order to lessen Montana's dependence on imported natural gas. Consistent with this policy, natural gas produced in the state from wells 5,000 or more feet deep has been exempt from the oil and gas surface tax for the first three years of production. This bill extends the existing exemption for a two-year period.

The exemption only applies to wells that are placed into a natural gas distribution system that serves primarily Montana residents and begins when the well is first placed into such a system.

Amends 15-36-121, MCA

Third reading votes: Senate 46-0 House 81-18

HB 370[2] - Underdal - Provides that the Oil and Gas Net Proceeds Tax be levied only on oil and gas sold during the taxable year. Each operator or producer of natural gas, petroleum, or other crude or mineral oil is required to submit, before March 31 of each year, a statement of gross sales proceeds to the Department

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[1]Chapter 265, Montana Session Laws 1981

[2]Chapter 425, Montana Session Laws 1981

of Revenue from each well owned or worked during the preceding calendar year. The gross sales proceeds shall be determined by multiplying the units of production sold from the well times the royalty unit value of that production at the well.

The net proceeds shall then be determined by subtracting from the gross sales proceeds thereof the following:

1. All royalty paid in cash by the operator or producer and the gross value of all royalty apportioned in kind by the operator or producer that shall be determined by using as the value of a barrel of oil or a cubic foot of gas the average selling price for the calendar year of a barrel of oil or a cubic foot of gas from the well out of which the royalty was paid;

2. Expenditures for labor, machinery, and supplies;

3. Expenditures for improvements, repairs, and betterments; and,

4. Expenditures for insurance, welfare, and retirement.

This act applies to taxable years beginning after December 31, 1979.

Amends 15-23-602, 15-23-603, 15-23-605, MCA

Third reading votes: Senate 50-0 House 94-0

SB 55[1] - B. Brown - Simplifies reporting requirements for the oil and gas severance tax by eliminating the requirement of verified returns and reports. Statements of yield, value, and amounts due, submitted to the Department of Revenue, are no longer required to be verified by the oath of the company representative making the statement.

Amends 15-35-104, 15-36-105, 15-38-105, MCA

Repeals 15-36-111, 15-37-113, 15-37-208, 15-58-103, 15-59-103, 15,59-203, MCA

Third reading votes: Senate 49-0 House 96-0

SB 200[2] - Lee - Allows for the deduction of federal excise taxes when computing the oil and gas net proceeds tax. "Excise tax" is defined as the windfall profit tax on domestic crude oil imposed by Title I of the Federal Crude Oil Windfall Profit Tax Act of 1980, as enacted or amended.

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[1]Chapter 334, Montana Session Laws 1981

[2]Chapter 525, Montana Session Laws 1981

Amends 15-23-601, 15-23-602, 15-23-603, 15-23-605, MCA

Third reading votes: Senate 42-4 House 64-33

SB 356[1] - Blaylock - Persons producing or extracting oil or natural gas must pay a severance tax on the total gross value of marketable oil or gas produced. This bill provides a single percentage rate of five percent to be used in computing the severance tax on petroleum collected during fiscal years 1982 and 1983 and six percent to be used in computing the severance tax on petroleum collected thereafter.

Amends 15-36-101, MCA

Third reading votes: Senate 31-16 House 61-32

KILLED:

HB 371 - Underdal - Allows indirect expenses incurred with respect to producing wells to be deducted when computing the oil and gas net proceeds tax.

Amends 15-23-603, MCA

Bill died in House Committee on Taxation.

HB 543 - Jacobsen - Allocates five percent of the oil and gas severance tax money collected from production within each county to the general fund of the respective county to be used exclusively for road and bridge construction and maintenance.

Amends 15-36-112, MCA

Bill killed on second reading in House.

HJR 44 - Vinger - Espouses support of efforts by U. S. Senator John Melcher to modify the Congressional Crude Oil Windfall Profit Tax of 1980 by providing tax incentives for exploration and production of domestic crude oil.

Resolution died in House Committee on Natural Resources.

OTHER

PASSED:

SB 16[2] - Smith - Requires oil and gas developers or operators to give written notice to surface owners of their intent to begin

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[1]Chapter 536, Montana Session Laws 1981

[2]Chapter 199, Montana Session Laws 1981

drilling operations. The bill also requires developers and operators to compensate surface owners for damages caused by drilling and production operations and allows the compensation to be made in annual installments.

To receive compensation, surface owners must give written notice of incurred damages within two years. Within 60 days, the developer must make a written offer of settlement, which may be accepted or rejected.

SB 165[1] - Smith - Provides for compensatory royalties in lieu of offset drilling on state oil and gas leases. Before the passage of this bill, oil and gas leases granted by the state were required to contain suitable provisions imposing upon all lessees the obligation to drill offset wells wherever and whenever necessary to prevent waste and damage to the property of the state. Now, the Board of Land Commissioners may allow the lessee the option of paying a compensatory royalty on a non-producing lease in lieu of drilling an offset well if it is determined that such compensatory royalty will fully compensate the state for waste and damage to the property of the state. The compensatory royalty shall be based upon the estimated drainage, as determined by the board, and shall be paid on a monthly basis unless circumstances require otherwise.

Amends 77-3-427, MCA

Third reading votes: Senate 47-0 House 97-0

KILLED:

HB 105 - Jacobsen - Requires oil and gas producers to provide verified production reports to royalty owners.

Bill died in House Committee on Business and Industry.

HB 849 - Briggs - Appropriates $65,000 for the fiscal year 1982, and $65,000 for the fiscal year 1983 to the Department of Natural Resources from the Resource Indemnity Trust Fund account to be used for plugging abandoned oil and gas wells in Montana.

Bill died in House Committee on Appropriations.

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[1]Chapter 81, Montana Session Laws 1981

P E S T S

TOXICANTS

One bill and two resolutions dealing with chemical toxicants were introduced in the House and received legislative approval.

(See also Wildlife SB 25)

PASSED:

HB 452[1] - Meyer (By request of the Department of Agriculture) - Generally revises pesticide registration, licensing, enforcement, and penalties. Aerial applicators must certify that federal aviation requirements have been met. Farm applicators must obtain a special-use permit prior to purchasing and using restricted-use pesticides and must qualify for the permit by passing a graded exam or attending a training course approved by the Department of Agriculture.

The bill makes it unlawful to remove or dispose of detained or embargoed pesticides or devices without permission of the department. The department is also authorized to inspect or investigate equipment, adverse effects, records, storage, and disposal of pesticides and may refuse to grant or renew a license or permit if violations occur.

Amends 80-8-204, 80-8-207, 80-8-209, 80-8-211, 80-8-301 through 80-8-306, MCA

Third reading votes: Senate 50-0 House 93-0

HJR 16 - Devlin - Requests President Reagan to revise the executive order of February 1972 banning the use of toxicants from predator control and requests supervised use of compound 1080 to control predators.

Third reading votes: Senate 42-6 House 87-9

HJR 54 - Underdal - Requests the Environmental Protection Agency to grant Montana and other western states additional time (until September 1984) to respond to the issues raised in the strychnine position document No. 2/3 released by that agency. It further requests President Reagan and the United States Congress to support this resolution. The Legislature felt a one-year comment period prior to a final decision by EPA was insufficient.

Third reading votes: Senate 47-0 House 96-0

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[1]Chapter 184, Montana Session Laws 1981

OTHER

PASSED:

HB 182[1] - Devlin - Removes the limitation on the amount of the license fee that may be imposed on sheep for the purpose of predator control.

The Board of County Commissioners has the power to require sheep owners to pay a license fee in an amount determined by the board. Formerly, the license fee was not to exceed 50 cents per head. Fees collected are placed in the predatory animal control fund and may be expended on order of the board for predatory animal control only. Control programs must give preference to recommendations made by organized associations of sheep growers in the county. Upon petition of the resident owners of at least 51 percent of the sheep in the county, the board must establish a predator control program. Upon petition, the fee may be increased or decreased.

Amends 81-7-303, 81-7-305, MCA

Third reading votes: Senate 49-0 House 95-0

HB 265[2] - Ellison - Provides for the creation and operation of rodent control districts. The bill authorizes and provides for petition procedures, hearings and objection, and other procedures of such districts. It also provides for the administration, financing, and implementation of the program.

Enacts 7-22-2207 through 7-22-2216, 7-22-2221 through 7-22-2226, 7-22-2231 through 7-22-2233, MCA

Repeals 7-22-2201 through 7-22-2206, MCA

Third reading votes: Senate 47-1 House 88-7

SB 484[3] - Severson (By request of the Senate Taxation Committee) - Raises the mill levies granted to the Department of Livestock for brands enforcement and animal health. It also raises the mill levies granted for predator control.

The department is authorized to levy an annual ad valorem tax on all livestock for the purpose of protecting them against destruction, depredation, and injury by wild animals. The levy may not exceed in any one year 15 mills on the taxable value of all sheep and 10 mills on the taxable value of other livestock. Monies received are transmitted to an earmarked revenue fund and made available for payment of bounty claims, planned expenditures, and campaigns

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[1]Chapter 9, Montana Session Laws 1981

[2]Chapter 391, Montana Session Laws 1981

[3]Chapter 445, Montana Session Laws 1981

directed or operated for the systematic destruction, extermination, and control of predators.

The bill was effective upon passage of SB 47 which removes livestock, poultry, and the unprocessed products of both from class seven and places them in class six for purposes of property taxation.

Amends 15-24-923, 81-7-104, MCA

Third reading votes: Senate 41-7 House 84-6

SJR 16 - Senate Committee on Agriculture, Livestock and Irrigation - Requests the United States Congress to amend Public Law 90-583, the Carlson-Foley Act of 1968, to require the federal government to implement a management program for the prevention, control, and containment of noxious plants on lands administered by federal agencies. The Carlson-Foley Act provides for appropriations to carry out those purposes, but no appropriations have yet been authorized. The legislature requested new language for the act that would read as follows: "The departments or agencies of the federal government shall implement and pursue an effective management program for the prevention, control, and containment of noxious plants on lands under their control or jurisdiction."

Third reading votes: Senate 49-0 House 93-0

SJR 18 - Senate Committee on Agriculture, Livestock, and Irrigation (By request of the Senate Agriculture Committee) - Requests the Congress to increase weed control and management programs on federal, state, and private lands and to allow federal land management agencies to enter into cooperative agreements with state and local weed management agencies. The resolution requests Congress to amend Public Law 95-313, the Cooperative Forestry Assistance Act of 1978, to include noxious weed control and management.

Third reading votes: Senate 49-0 House 89-4

KILLED:

HB 822 - Thoft - Appropriates $307,000 for the fiscal year 1982 and $320,000 for the fiscal year 1983 to the Agricultural Experiment Station at Montana State University from the Resource Indemnity Trust Fund for weed research and education.

Bill killed in House Committee on Appropriations

SB 4 - Galt - Establishes a weed research and education program within the Agricultural Experiment Station and the Cooperative Extension Service of Montana State University and provides for a tax levy of 2 mills on land not within an incorporated city or

town for the purpose of funding research and education to improve weed control and management. Also establishes a weed research and education advisory committee.

Bill killed in the House on second reading

(See also Land Use, Weed Control)

P O L L U T I O N

AIR

Four pieces of legislation pertaining to air pollution, and specifically to fluoride levels, were considered by the 1981 session. The measures which passed were very similar to those that did not. The one bill which became law restricts the authority of the Board of Health in setting ambient air standards for fluoride and the only resolution that was adopted repealed a state air quality standard that was in conflict with another standard.

(See also Mining SB 205)

PASSED:

HB 642[1]- Bennett - Amends the Montana Clean Air Act and limits the authority of the Board of Health and Environmental Sciences to set standards regulating fluoride pollution. The bill requires that an air quality standard be established for fluoride but that any such standard be established only in terms of concentrations of fluorides in forage grasses, hay, and silage. The board is thus prevented from adopting an air quality standard governing fluoride in its gaseous state (HF).

The pertinent language reads: "Ambient air quality standards for fluorides shall be established through limitations upon the concentration of fluorides in forage grasses, hay, and silage."

Amends 75-2-202 , MCA

Third reading votes: Senate 46-4 House 84-6

HJR 22 - Bennett - Repeals standards adopted by the Department of Health and Environmental Sciences for fluoride and particulate emissions from existing primary aluminum reduction plants. This action was taken because the existing standards were established prior to the state's adoption of less restrictive federal standards and as such were thought to impede the expansion and economic growth of the affected industry.

Third reading votes: Senate 47-1 House 66-33

KILLED:

HB 334 - Kanduch - Requires legislative approval before ambient air quality standards or emission standards adopted by the Board

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[1]Chapter 565, Montana Session Laws 1981

of Health that are more stringent than federal standards may become effective. Also allows counties to adopt standards more stringent than federal standards notwithstanding the lack of legislative approval for more stringent state standards, provided a majority of its qualified electorate vote in favor of more stringent standards.

Amends 75-2-202 and 75-2-203, MCA

Bill died on second reading in House

SJR 17 - Jacobson - Repeals the standard adopted by the Board of Health for the level of fluoride in the ambient air and directs the adoption of a new less stringent standard.

Resolution died in House Committee on Natural Resources

WATER

Three bills dealing with water pollution issues were heard by the Legislature and none were passed. Those would have prohibited the sale of certain phosphorous based cleaning products.

(See also Mining SB 205)

KILLED:

HB 551 - Kemmis - Establishes an additional criteria for the issuance of water right permits. For an application involving the use of large quantities of water, the Department of Natural Resources shall consider the benefits to the applicant and the state, the effects on the quality of water in the source of the supply, and the effects on private property rights by the creation of or contribution to saline seep.

Amends 85-2-311, MCA

Bill killed in House Select Committee on Water

HB 570 - Holliday - Appropriates $200,000 from the Resource Indemnity Trust Fund for the biennium ending June 30, 1983, to the reclamation division of the Department of State Lands for the purpose of conducting a study on the consequences of coal mining and reclamation operations on quantity and quality of water in the surrounding groundwater systems.

Bill died in House Committee on Appropriations

HB 782 - Keedy - Prohibits the sale and distribution of household cleaning products that contain a phosphorous compound in concentrations in excess of a trace quantity except those used in

dishwashers, for cleaning medical and surgical equipment, for cleaning food and beverage processing equipment, for cleaning dairy equipment, and in industrial processes.

Bill died in House Committee on Business and Industry

NOISE

Only one measure dealing with noise pollution was introduced in the Legislature.

KILLED:

HB 222 - Robbins - Limits noise pollution emissions from motorboats by establishing maximum noise levels. Also requires testing and certification of noise levels of outboard motors and marine engines manufactured after January 1, 1982.

Amends 23-2-502 and 23-2-512, MCA

Bill killed in Senate on second reading

TRANSPORTATION

HIGHWAY MOTOR CARRIERS

Three bills dealing with transportation on Montana's highways were considered by the 1981 Legislature. Two of these measures passed. They prohibit the highway transport of more than 10 coniferous trees without a detailed bill of sale and adopt the Multistate Highway Transportation Agreement. The defeated bill would have authorized the Public Service Commission to determine and fix reasonable rates for class D motor carriers.

PASSED:

HB 195[1] - Curtiss - Prohibits the transport of more than 10 coniferous trees on highways of the state without a bill of sale. The bill of sale must specifiy names, addresses, dates, number of trees, and the shipping yards or the property from which the trees were taken. This does not apply to trees with their roots intact, forest products from which substantially all the limbs have been removed, or the transportation of trees by the owner of the land. In addition, it does not apply to the transportation of coniferous trees by a common carrier.

Violations are punishable by a fine not to exceed $500 or imprisonment not to exceed six months, or both.

Enacts 76-13-601

Third reading votes: Senate 47-0 House 89-3

HB 681[2] - Sivertsen - Adopts the Multistate Highway Transportation Agreement. Purposes of the agreement are:

1. Adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system;

2. Establish a system authorizing the operation of vehicles traveling between two or more participating jurisdictions at more adequate size and weight standards;

3. Promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives;

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[1]Chapter 133, Montana Session Laws 1981

[2]Chapter 224, Montana Session Laws 1981

4. Secure uniformity, insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards; and,

5. Provide means for the encouragement and utilization of research that will facilitate the achievement of the purposes.

Enacts 61-10-1101

Third reading votes: Senate 44-3 House 100-0

KILLED:

HB 487 - Quilici - Authorizes the Montana Public Service Commission to determine and fix reasonable rates for class D motor carriers when required for the best interests of the public.

Amends 69-12-201 and 69-12-502, MCA

Bill killed in House Committee on Business and Industry

RAIL

Four of the six bills introduced last session affecting rail transportation in the state passed and became law. The new enactments appropriate funds to the Governor for the purpose of procuring certain interstate rail services, authorize the Governor to negotiate with other states for the establishment of rail passenger service in Montana, and, revise existing law related to railroad bonds, and impose restrictions on the property taxation of railroads by the state and local governments.

The defeated bills would have appropriated funds for the purchase of a certain portion of the Milwaukee Railroad and for the financing of litigation between the State of Montana and Burlington Northern Railroad, Inc.

PASSED:

HB 92[1] - House Committee on Taxation - Allows the Department of Revenue to comply with the Federal Railroad Revitalization and Regulatory Reform Act of 1976. The act places restrictions on the property taxation of railroads by state and local governments. Local taxing jurisdictions may not tax railroads at a higher tax rate than that levied on commercial and industrial property in general. The bill provides a mechanism to the Department of Revenue

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[1]Chapter 367, Montana Session Laws 1981

to adjust the percentage multiplier for converting market value to taxable value for railroad property. It is intended that the department may adjust the multiplier, if necessary, to achieve compliance with the federal requirements. In making the adjustment, the department may take into account:

1. Differing percentages, as provided by statute, between various classes of property; and,

2. Differences in the determination of market value between commercial and industrial property on one hand and railroad property on the other, if any such differences exist.

Language in the bill affords the department reasonable latitude in developing a method of adjusting the multiplier.

Amends 15-6-141, 15-23-202, MCA

Third reading votes: Senate 39-8 House 94-3

HB 593[1] - Gould - Authorizes the Governor to negotiate with other states to establish agreements for submitting application to the rail passenger corporation for institution of rail passenger service in the state.

"The Governor or his authorized representative may negotiate with the proper authority representing any other state to establish an agreement to enable Montana, in concert with other states, to submit an application to the rail passenger corporation for institution of rail passenger service under the provisions of the Rail Passenger Service Act (45 U.S.C. 563 (b)). The Governor may not participate in the submission of an application until the base agreement and any application have been approved by the legislature."

Enacts 60-11-201

Third reading votes: Senate 40-0 House 93-0

HB 810[2] - Lund - Authorizes the Governor to enter into an agreement with other affected states to preserve rail services from Jonathan, Minnesota, to Miles City, Montana. The Governor may enter into such an agreement on behalf of the state if each of the other participating states fully funds its share of the agreement and Montana's total liability under the agreement is limited to an amount not to exceed $258,000.

The bill appropriates $258,000 from the general fund to the Governor for the biennium ending June 30, 1983. The money may not be spent

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[1]Chapter 498, Montana Session Laws 1981

[2]House Bill 810

until each of the other participating states fully funds its share of the agreement. If the money is not spent, it reverts to the general fund.

Third reading votes: Senate 50-0 House 90-6

HB 654[1] - Menahan - Revises the law pertaining to railroad bonds and provides the necessary backing for railroad, rehabilitation revenue bonds, and railroad rolling stock revenue bonds. Railroad rehabilitation revenue bonds may be issued as serial bonds payable in annual installments, as term bonds, or as a combination of serial and term bonds. A bond may not mature more than 50 years from the date of issue. The amount to be issued and sold at any one time shall be determined by the Department of Commerce. The bonds may be sold at either public or private sale and at prices above or below par as determined by the department. The interest rate or rates on the bonds shall be determined by the department. The total amount of bonds outstanding at any one time may not exceed $25 million.

The department may enter into covenants with the bondholders by resolution, trust indenture, or other appropriate security instruments to enhance the marketability of the bonds. If the department enters into a trust indenture, it may provide for the establishment of funds and accounts to be held by the trustee and may pledge and appropriate the bond proceeds, capital reserves, and loan payments to such funds and accounts.

The bill defines "railroad rolling stock" as railroad cargo carriers used to transport grain, coal, ore, lumber, freight, and commodities.

Amends 60-11-1102, 60-11-1104 through 60-11-1107, 60-11-1112, 60-11-1204 through 60-11-1207, 60-11-1211, 60-11-1103, MCA

Third reading votes: Senate 49-0 House 91-0

KILLED:

HB 848 -Nordtvedt - Appropriates $2,500,000 from the principal of the Coal Severance Tax Constitutional Trust Fund for the biennium ending June 30, 1983, to the Department of Commerce for the purpose of purchasing the Milwaukee Railroad main line right-of-way and bridges from Miles City to Butte and the branch line right-of-way and bridges north from Harlowtown.

Bill killed in House Committee on Appropriations

HB 866 - Waldron - Appropriates $171,089 to the Attorney General for each year of the biennium ending June 30, 1983, for expenses

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[1]Chapter 486, Montana Session Laws 1981

of certain litigation between the State of Montana and Burlington Northern, Inc.

Bill killed in House Committee on Appropriations

OTHER

PASSED:

HB 299[1] - Shontz - Exempts a person receiving a permit for the movement of agricultural products from single trip permit fees. A special permit issued under subsection (1) (Maximum Gross Axle Weight) for the transportation of agricultural products by farm vehicles from a harvesting combine or other harvesting machinery to the point of first unloading shall be for the full term of the harvest season of the agricultural product transported.

An operator of a vehicle or combination of vehicles subject to the provisions of 61-10-107(2) (Maximum Gross Axle Weight) may move over a highway, except any highway which is part of the federal aid interstate system, within a 50-mile radius of the harvested field to the point of first unloading, without incurring excess weight penalties. The exemption applies if the total gross weight of vehicle or combination of vehicles does not exceed allowable weight limitations by more than 20 percent per axle and the maximum load per inch of tire width does not exceed 670 pounds. Additionally, the vehicles (or combination) may not exceed 40 miles per hour. No single trip permit is applicable.

Amends 61-10-107, 61-10-144, MCA

Third reading votes: Senate 44-4 House 97-0

HB 854 - Ernst - Appropriates money to the Department of Commerce to plan for and coordinate transportation needs and services for all modes of transportation and to pursue rate analysis and litigation. The bill appropriates from the general fund $102,313 for fiscal year 1982, and $222,313 for fiscal year 1983.

Third reading votes: Senate 35-10 House 73-21

HJR 27 - Quilici - Requests an interim study of commercial transportation problems in Montana. The Legislature requests that an appropriate interim committee include in its study a consideration of at least the following:

1. The effect of deregulation, by the federal government and by other states, of motor carriers and rail carriers on sparsely populated rural areas like Montana;

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[1]Chapter 392, Montana Session Laws 1981

2. Reorganization of rates such that the more lucrative trunk routes are forced to assist the less lucrative spur routes into the sparsely populated areas; and,

3. Involvement by the state in providing necessary transportation systems.

Third reading votes: Senate 47-0 House 94-4

HJR 33 - Shontz (By request of the House Committee on Business and Industry) - Requests an interim study of the transportation industry in Montana. The resolution requests that an interim committee be assigned to study the capability of the intrastate common carriers to serve reasonably the people of Montana, the tariffs necessary to provide adequate returns to the carriers, the ability of the people of Montana to pay the rates required by the carriers, the network of routes essential to serve all sections of the state, the functions of the Public Service Commission in regulating intrastate carriers, and the probable effect of deregulation on intrastate carriers.

Third reading votes: Senate 45-2 House 89-9

W A S T E

HAZARDOUS MATERIALS

Four measures dealing with hazardous waste materials were introduced in the 1981 Legislature. Two substantially similar bills sought to remove an existing prohibition of nuclear waste disposal in the state. Only one of these passed and became law. Another bill which did receive legislative approval sought to clarify and revise the state regulation of hazardous wastes in order to achieve harmony with the federal regulations dealing with these materials. Lastly, a resolution was adopted which calls for the creation of regional nuclear waste disposal facilities.

PASSED:

HB 652[1] - Conroy - Removes the prohibition of disposal of radioactive wastes in the state including mill tailings from uranium and thorium ore processing plants (amends Section 1 of Initiative 84). Also provides for the control and condemnation of land used for disposal of mill tailings from uranium and thorium ore processing, and revises the laws concerning radiation control.

Rule-making authority is given to the Department of Health and Environmental Sciences or the Department of State Lands to regulate the processing of exempt ores. In regulating this processing, the department is directed to take such measures as are necessary to protect the public's health.

Subject to referendum in 1982.

Amends 75-3-102 through 75-3-104, 75-3-201, 75-3-202, 75-3-302, 75-3-303, 70-30-102, Section 1 of Initiative 84

Enacts 75-3-205 through 75-3-208, MCA

Third reading votes: Senate 40-7 House 90-2

HJR 42 - D. Brown (By request of the office of the Governor) - Requests that the Governor negotiate an interstate compact with the State of Washington and other interested western states to provide for regional disposal facilities for low-level radioactive wastes.

Third reading votes: Senate 47-3 House 91-3

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[1]Chapter 612, Montana Session Laws 1981

SB 212[1] - Hager (By request of the Department of Health and Environmental Sciences) - Separates from the existing Solid Waste Management Act all references to the treatment, storage, disposal, generation, and transportation of hazardous wastes and places the statutes regulating hazardous wastes into a separate part of the code. Grants the Department of Health and Environmental Sciences authority to make necessary adjustments, through rule-making, in order to bring its program affecting generators and transporters of hazardous wastes, the universe of hazardous waste, inspection and sampling, definitions, enforcement alternatives and penalties into equivalency and consistency with federal requirements. This includes the authority to amend and adopt new rules which may be needed to meet changing minimum federal standards for a hazardous waste program authorized for state control under the Federal Resource and Conservation Recovery Act of 1976.

Amends 75-10-202 through 75-10-204, 75-10-212, 75-10-214, 75-10-221, 75-10-232, MCA

Enacts 75-10-401 through 75-10-421, MCA

Repeals 75-10-211, 75-10-225, MCA

Third reading votes: Senate 49-0 House 92-6

KILLED:

HB 116 - Conroy - Repeals Initiative 84, relating to the disposal of radioactive waste materials in the State of Montana.

Bill died in House Committee on Natural Resources

JUNK VEHICLES

Two pieces of legislation affecting junk vehicle disposal were introduced in the 1981 session. Both bills arose in the Senate and failed to gain legislative approval.

KILLED:

SB 223 - Blaylock - Amends the definition of Motor Vehicle Wrecking Facility so that the term does not include, for licensing purposes, a facility that purchases worn-out or obsolete automobile components for purposes of smelting or extraction of valuable metals.

Amends 75-10-501, MCA

Bill killed in Senate Committee on State Administration

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[1]Chapter 358, Montana Session Laws 1981

SB 353 - Conover - Provides for the auction of junk motor vehicles by individual counties.

Amends 75-10-521 and 75-10-532, MCA

Bill killed in House Committee on Local Government

LITTER/RECYCLING

Seven bills concerned with the matter of litter and the recycling of certain materials were brought before the Legislature in 1981. The majority of these bills, however, did not pass and become law. Of the two measures that did receive legislative approval, one was specific and issued a prohibition against metal beverage containers with detachable openers while the other was very broad in providing tax incentives for the recycling of organic matter in order to revitalize agricultural lands. The defeated bills, among other things, would have appropriated funds for recycling and litter control efforts, established a program for interagency cooperation in this area, and required the state to purchase and use rerefined oil when feasible.

(See also Energy HB 506; HJR 19)

PASSED:

HB 468[1] - Thoft - Prohibits the sale of certain types of containers. No person may sell or offer for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable when opening the container. A violation is a misdemeanor and is punishable as provided in 46-18-212 (not to exceed six months in jail or $500). Each day on which a violation occurs is a separate offense.

Act effective January 1, 1982.

Enacts 75-10-301 through 75-10-303

Third reading votes: Senate 47-7 House 83-4

SB 322[2] - Halligan - Provides tax incentives for the production and use of organic fertilizers. In addition to all other deductions from adjusted gross individual income allowed in computing taxable income under Title 15, Chapter 30, or from gross corporate income allowed in computing net income, Title 15, Chapter 31, a taxpayer may deduct expenditures for organic fertilizer both produced in and used in Montana. Also that portion of expenses for organic fertilizer allowed as a deduction which was not otherwise deducted

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[1]Chapter 185, Montana Session Laws 1981

[2]Chapter 533, Montana Session Laws 1981

in computing taxable income, is allowed as a deduction in computing net income.

Amends 15-30-121, MCA

Enacts 15-32-301 through 15-32-303, MCA

Third reading votes: Senate 47-0 House 64-32

KILLED:

HB 506 - Bertelsen - Requires the state, its political subdivisions, school districts, and particularly the Department of Highways to purchase and use rerefined lubricating oil when it is reasonably available and meets specifications for quality. Directs the Department of Health and Environmental Sciences to study the feasibility of establishing a collection and recycling system for used oil in Montana.

Bill killed in House Committee on Highways and Transportation.

HB 567 - Hemstad - Appropriates $1,500,000 from the general fund and $500,000 from the earnings account of the Constitutional Trust Fund to the Department of Health and Environmental Sciences, Solid Waste Bureau for litter control and recycling for the biennium ending June 30, 1983.

Bill killed in House Committee on Appropriations

SB 431 - Hager - Seeks to control litter in Montana by providing for the recycling of certain materials including, but not limited to, ferrous and non-ferrous metals, glass, paper, plastic, and waste oil. Requires the Department of Health and Environmental Sciences to serve as the co-ordinating agency between agencies of government and private persons involved in litter control and recycling activities and delegates rule-making authority to the department for the implementation of the provisions of this act.

Repeals 61-8-365, MCA

Bill killed on House second reading

SB 433 - Hager - Seeks to control litter in the State of Montana by providing for the recycling of certain materials and products. Requires the Department of Health and Environmental Sciences, among other things, to develop and implement programs for litter prevention and increased recycling, including, but not limited to, the distribution of litter bags and the creation of a recycling hotline, if same is determined by the department to be both necessary and feasible. Provides the following incentives for recycling: all money earned through recycling efforts is exempt from Montana State individual income tax and all state agencies

shall whenever feasible, purchase and use products manufactured from recycled material.

Amends 15-30-111, MCA

Repeals 61-8-305, MCA

Bill died in Senate Committee on Public Health

SJR 3 - Towe - Gives opponents of litter and beverage container recycling until the 1983 session of the Legislature to formulate a comprehensive approach to the litter problem in Montana. Appropriate legislative action is urged if such an approach is not timely presented.

SOLID WASTE

Two measures dealing with solid waste disposal were proposed and passed into law. The new enactments are basically non-substantive and revise or modify existing law related to solid waste management.

PASSED:

HB 307[1] - Yardley (By request of the Department of Health and Environmental Sciences) - Delegates rule-making authority to the Board of Health and Environmental Sciences for making grants to local governments for the purchase of solid waste management capital equipment. It provides rule-making authority for the establishment of eligibility standards and award procedures in making capital equipment grants.

Also delegates authority to revise existing administrative rules in the area of solid waste grants. The needed revisions will allow the department to issue implementation grants to local governments as they become available for purposes of establishing waste management systems.

Amends 75-10-103, 75-10-105, 75-10-106, 75-10-125, MCA

Third reading votes: Senate 43-6 House 76-13

HB 445[2] - Roth - Creates a procedure to obtain a variance from the rules adopted by the Department of Health and Environmental Sciences pursuant to the Solid Waste Management Act.

Upon application, the Board of Health may grant a variance if it finds that:

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[1]Chapter 482, Montana Session Laws 1981

[2]Chapter 563, Montana Session Laws 1981

1. Failure to comply with the rules does not result in a danger to public health and safety; or

2. Compliance with the rules from which a variance is sought would produce hardship without producing benefits to the health and safety of the public that outweigh the hardship.

No variance may be granted except after a hearing pursuant to the Montana Administrative Procedure Act and consideration by the board of the relative interests of the applicant and owners of the property likely to be affected by the waste disposal system under consideration.

Enacts 75-10-206

Third reading votes: Senate 49-1 House 85-7

OTHER

KILLED:

HB 532 - Nordtvedt - Appropriates $1,000,000 to the Department of Administration from the general fund for planning, site preparation, and construction of landfill transfer stations in Bozeman, Logan, and Ennis. Also provided is the planning and site preparation of a refuse disposal and cogeneration facility at Montana State University for production of electricity and steamheat. The Board of Examiners is authorized to issue and sell long-range building bonds for the purpose of financing the construction of the cogeneration facility.

Bill died in House Committee on Appropriations

W I L D L I F E

Seven pieces of legislation dealing with wildlife were considered by the Legislature in 1981. The four such measures that passed exempt individuals from liability for killing wildlife when human life or livestock is threatened; prohibit the possession of non-domestic animal species capable of transmitting rabies; make the trafficking of unlawfully obtained wildlife a felony; and, request a study, generally, of the organization of the Department of Fish, Wildlife and Parks.

The bills that did not pass would have established a council to manage non-game wildlife and prohibited the roadside use of herbicides and insecticides in forrested areas west of the Continental Divide.

PASSED:

HB 152[1] - Donaldson (By request of the Department of Health and Environmental Sciences) - The purpose of this bill is to minimize transmission of rabies by prohibiting the possession of bats, skunks, foxes, or racoons. Provides for prohibition of possession of certain other animals known to be capable of transmitting rabies to human beings. Provides an exemption for animals that are possessed for six months prior to January 1, 1982.

Creates rule-making authority for the Department of Health and Environmental Sciences with the approval of the Department of Livestock to administer and implement the law. Rule-making is needed in order to add a species of animal to those presently designated "wild animals" by the act if the chance of rabies occurs in that species increases beyond its present levels. Coyotes, for example may become a rabies threat in the future.

Enacts 50-23-101 through 50-23-106

Third reading votes: Senate 44-6 House 90-6

HB 738[2] - J. Ryan - Clarifies that area of the law which allows the taking of wildlife when necessary to protect persons or livestock. Chapter 3, title 87 states that "nothing in this chapter may be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by this chapter if such wildlife is molesting, assaulting, killing, or threatening to kill any person or livestock. Any person who so takes any wildlife protected by this chapter shall notify the department within 72 hours."

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[1]Chapter 448, Montana Session Laws 1981

[2]Chapter 306, Montana Session Laws 1981

Enacts 87-3-130, MCA

Third reading votes: Senate 48-1 House 91-6

HJR 47 - Nilson - Requests assignment of an interim committee to study the organization, effective utilization of personnel, budgetary constraints, and land acquisition policy of the Department of Fish, Wildlife, and Parks.

The committee is directed to review the operation and management objectives of the department and should include representatives of the seven geographic regions served by the department. The committee is also directed to:

1. Review the director's duties for cost effectiveness;

2. Review specialists for execution of management objectives;

3. Review staffing policies to make certain that

   a. needed specialists are on staff
   b. they are working within the scope of objectives
   c. the department is making optimum use of specialists;

4. Review land acquisition policies to make certain that the policies

   a. insure maximum public access
   b. insure that resources are managed for the benefit of current and future generations, and
   c. insure that funds are properly used.

Third reading votes: Senate 41-7 House 71-24

SB 103[1] - Smith - Makes the trafficking in body parts of unlawfully taken wildlife a felony. It is unlawful for any person to purchase, sell, offer to sell, possess, ship, or transport any game fish, game bird, migratory game bird, game animal, or fur-bearing animal or the parts thereof, protected by the laws of Montana, whether belonging to the same or different species, from that native to the State of Montana, except as specifically permitted by law. These provisions do not prohibit possession or transportation of lawfully killed game animals. Persons engaging in prohibited activities in furtherance of a scheme to traffic the body parts of such species are guilty of a felony which is punishable by a fine of $10,000 or imprisonment for one year, or both.

Amends 87-3-111, MCA

Third reading votes: Senate 46-1 House 92-5

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[1]Chapter 92, Montana Session Laws 1981

KILLED:

HB 719 - Ernst - Authorizes the Department of Fish, Wildlife and Parks to issue licenses for the taking, holding, and breeding of raptors used in the practice of falconry.

Amends 57-5-204 and 87-5-206, MCA

Killed in House Committee on Fish and Game

HB 787 - Anderson - Seeks to provide for the management of non-game wildlife in Montana by establishing a non-game wildlife council under the Department of Fish, Wildlife and Parks, to be funded through a voluntary contribution checkoff on state income tax forms. The council shall, among other things, advise the department generally as to the management of non-game wildlife.

Amends 87-5-102, MCA

Bill killed in House Committee on Fish and Game

SB 25 - Hafferman - Prohibits the use of herbicides and insecticides along roadways in forested lands west of the Continental Divide as a means of protecting the beneficial bird populations of the area.

Bill killed in Senate Committee on Agriculture

W A T E R

APPROPRIATION OF STATE FUNDS

Of the seven appropriations bills considered by the Legislature relative to water, six were passed and became law. The measures that passed provide funding for:

- .. emergency assistance to an irrigation project in Glen Lake;
- .. the rehabilitation of the Cooney Dam;
- .. the operation of a water rights commission;
- .. renewable resource development projects;
- .. the rehabilitation of the Tongue River Dam;
- .. the creation of a state debt for water development banks

The bill that did not gain approval would have funded a study of coal mining effects on groundwater systems.

PASSED:

HB 601 - Curtiss - Appropriates $130,000 to the Department of Natural Resources and Conservation from the renewable resource development clearance fund account for emergency assistance in replacement of the St. Clair Siphon in the Glen Lake Irrigation District.

The grant is to be administered under the renewable resource development program and must be made before June 30, 1983, or the money will revert to the renewable resource development clearance fund account.

Third reading votes: Senate 42-0 House 81-14

HB 603 - Burnett - Reappropriates funds to the Department of Natural Resources and Conservation to rehabilitate the Cooney Dam of the Rock Creek Project located near Red Lodge in Carbon County.

The sum of $444,330 is reappropriated from the Resource Indemnity Trust Fund interest account for the biennium ending June 30, 1983, from the biennium ending June 30, 1981. The total expenditure of resource indemnity trust fund interest may not exceed $591,300 for the two bienniums ending June 30, 1983, and shall be used for the rehabilitation of Cooney Dam as set forth in the Rehabilitation

of Cooney Dam Spillways Report. In addition, there is appropriated $1,447,000 from a federal water and power resource service loan and $260,000 from a federal land and water conservation grant.

Third reading votes: Senate 49-0 House 80-2

HB 617 - Roth - Appropriates to the Department of Natural Resources and Conservation $485,000 from the water right adjudication account of the earmarked revenue fund for the operation of the reserved water rights compact commission for the biennium ending June 30, 1983.

Third reading votes: Senate 45-2 House 92-3

HB 709 - Neuman (By request of the Department of Natural Resources and Conservation) - Appropriates money to the Department of Natural Resources and Conservation from the renewable resource development clearance fund account for various projects under the renewable resource development program. Specifies certain conditions upon the appropriations.

Grants are to be awarded to conservation and irrigation districts, state agencies, local governments, planning organizations, water associations, and the university.

Disbursement of funds are made only after:

1. The projects have been authorized by other financial sponsors, if any;

2. Initial funding from other sources, if any, has been committed for construction; and

3. An agreement between the Department of Natural Resources and Conservation and the applicant has been executed governing the administration and disposal of funds.

If a condition listed above is not met, the funds appropriated for the associated project revert to the renewable resource development clearance fund account.

Third reading votes: Senate 46-0 House 88-7

HB 846 - Asay (By request of the Department of Natural Resources and Conservation) - Appropriates funds to the Department of Natural Resources and Conservation for the rehabilitation of the Tongue River Dam as recommended in the Tongue River Dam Project Summary Report. The bill approves the issuance of State of Montana coal severance tax bonds for a state-federal cost sharing of the Tongue River Dam rehabilitation construction costs.

There is appropriated for pursuing the option to rehabilitate the Tongue River Dam:

1. From the net earnings available for appropriation in the renewable resource development bond account, the sum of $40,732 for the period beginning on the effective date of the act and ending June 30, 1981; and

2. From the water development earmarked account created by Senate bill 409, out of funds available under section 5(3)(b), SB 409, the sum of $395,331 for the biennium ending June 30, 1983.

The Legislature, through the enactment of this section, authorizes the creation of a state debt in an amount not to exceed $10 million for the issuance of State of Montana coal severance tax bonds authorized by this section. The authorization is contingent upon legislative approval of a detailed project plan approved by the Board of Natural Resources and Conservation that includes a resolution of Northern Cheyenne water right conflicts in the Tongue River Basin and upon the appropriation of federal funds to construct the project approved by the Board of Natural Resources and Conservation and Legislature.

Third reading votes: Senate 49-1 House 95-0

HB 851 - Bardanouve (By request of the Governor) - Authorizes the issuance of and creation of state debt for water development bonds in an amount not to exceed $5 million.

"The legislature, through the enactment of this section by a two-thirds vote of the members of each house, authorizes the creation of state debt in an amount not to exceed $5 million and the issuance and sale of water development bonds in this amount for the purpose of providing funds appropriated to the water development clearance fund account for loans as provided in the water development program."

Third reading votes: Senate 49-0 House 93-2

KILLED:

HB 570 - Holliday - Appropriates $200,000 to the reclamation division of the Department of State Lands for the biennium ending June 30, 1983 from the Resource Indemnity Trust Interest Account for the purpose of conducting a study of the consequences of coal mining and reclamation operations on quantity and quality of water on surrounding groundwater systems.

DEVELOPMENT

Four bills were introduced in the 1981 session concerning the development, enhancement, and conservation of the state's water resources. The three bills that passed established a water resources oversight committee, created a long term water development program, and funded a feasibility study of a hydro-electric project in the Yellowstone River Basin. The measure that failed would have imposed an annual fee on appropriations of water.

PASSED:

HB 861 - Hurwitz - Provides for analysis of the feasibility of generating hydro-electric power at off-stream sites in the Yellowstone River Basin. To implement the act, $350,000 is appropriated from the interest income of the Resource Indemnity Trust Fund or from the renewable resource development clearance fund account, or both.

The purposes of the act are to:

1. Demonstrate that the drainage system can develop supplies of power;

2. Demonstrate capacity within the framework of existing environmental protection statutes; and,

3. Direct consideration of how electricity could be marketed.

The bill directs the Department of Natural Resources and Conservation to formulate project concepts, conduct preliminary environmental and economic reviews, analyze licensing requirements, and consider various means by which the power generated could be sold.

Third reading votes: Senate 50-0 House 93-0

HB 874[1] - Roth - Establishes the water resources oversight committee and appropriates funds for the committee. The Speaker of the House and the Committee on Committees of the Senate each appoint four members of their respective houses to serve. No more than two members from each house may be from the same party.

The committee works with and oversees the efforts of state agencies charged with the responsibility of developing and managing the state's water resources, including the water development program created under SB 409. A primary responsibility is to keep informed of water development projects and activities requested under the water development program, and study any other issues related to water development and conservation considered important to the people of the state.

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[1]Chapter 609, Montana Session Laws 1981

The committee may make recommendations to agencies and the legislature relating to water development and conservation programs and requests for grants and loans for projects and activities under SB 409 as it considers necessary. Such recommendations may include proposals for legislation. The committee may also continue the work of the previous interim's water resources and adjudication oversight committee of overseeing the implementation of the water rights adjudication system.

Appropriations from the renewable resource development clearance fund account is the source of funding for the activities of the committee.

Expires June 30, 1983

Third reading votes: Senate 45-1 House 84-9

SB 409[1] - D. Manning - Creates a long-term water development program which provides financial and administrative assistance to private, local, and state entities for water resource development projects and activities.

The purposes of the program are to:

1. Further the state's water use policies set forth in Title 85 (Water Use);

2. Dedicate a portion of the taxes on the removal of nonrenewable resources to the conservation, development, and beneficial use of water resources;

3. Make the program an integral part of the implementation and development of the comprehensive, coordinated, multiple-use water resources plan known as the "state water plan".

Program objectives include:

1. Rehabilitation of state-owned water projects and works;

2. Promotion of private, local government, and state water development;

3. Development of water-based recreation and the protection of water resources for the benefit of agriculture, flood control, and other uses;

4. Development of offstream and tributary storage; and

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[1]Chapter 505, Montana Session Laws 1981

5. Development of state-tribal, state-federal, and state-tribal-federal water projects.

The storage of water for existing and future beneficial uses shall be given the highest priority unless a water development project or activity designed to accomplish another objective is demonstrated to be more beneficial to a greater number of people.

The bill allows the Board of Examiners to issue and sell water development bonds of the state in the amount and manner it considers necessary and proper to finance the water development loan program. Board proceeds may only be used to finance water resource development projects and activities designed to provide a healthy economy, clean environment, and alleviate social and economic impacts created by coal development.

The bill also lifts the interest ceiling on water conservation revenue bonds and requires a limited appropriation of income and interest from the coal severance tax trust.

Amends 15-35-108, 15-38-202, 85-1-102, 85-1-301, 85-1-332, 90-2-111, 90-2-124, MCA

Enacts 17-5-701 through 17-5-719, 86-1-601 through 86-1-622, MCA

Repeals 85-1-333, 85-1-334, MCA

Third reading votes: Senate 50-0 House 93-0

This act, except for sections 4, 43, and 49, is effective July 1, 1981; sections 4,43, and 49 are effective July 1, 1983.

KILLED:

SB 474 - Boylan - Imposes an annual fee on appropriations of water made after July 1, 1981 and exempts domestic and agricultural uses therefrom. Also creates a "water development program" funded by the fee which promotes activities for the conservation management, use, development, and protection of water in the state.

Amends 85-1-102, MCA

Bill died in Senate Committee on Agriculture

FLOOD CONTROL

Of the two measures concerned with flood prevention that were introduced and considered by the Legislature, only one became law. The new enactment merely redefined the term "floodplain" as it relates to existing law in the area of flood control while the defeated bill would have generally broadened the state policy with respect to permitting stream and river alterations as a means of

flood protection.

PASSED:

HB 479[1] - Donaldson - Revises the definition of "floodplain". It is amended to mean the area adjoining the watercourse or drainway which would be covered by the floodwater of a flood of 100-year frequency, except for sheetflood areas that receive less than one foot of water per occurrence and are considered "Zone B" by the federal emergency management agency.

Amends 76-5-103, MCA

Third reading votes: Senate 49-0 House 93-3

SB 327 - Hafferman - Broadens the state policy with respect to alteration of rivers and streams and the land adjacent to them by allowing alterations when it becomes necessary to protect the lives and property of landowners.

Amends 75-7-102, 75-7-113, and 87-5-501, MCA

Bill died in House Committee on Natural Resources

RIGHTS/USE

Numerous measures related to the utilization of the state's water resources were dealt with by the Legislature, many of which were accepted and signed into law.

(See also Energy HJR 18, SB 138, SB 229, HB 397, HB 628, HJR 11)

PASSED:

HB 100[2] - Bardanouve - Allows the Department of Natural Resources and Conservation to sell or otherwise dispose of water projects and associated works and property after a determination of market value.

The department, with the approval of the board, may sell or otherwise dispose of a water project, after the discharge of all of the bonds issued by the board to finance the construction or acquisition thereof, if any, and of all interest thereon and costs and expenses incurred in connection with any action or proceeding by or on behalf of the holders of the bonds. The department shall make a determination of the market value of the water project prior to its sale or other disposition.

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[1]Chapter 428, Montana Session Laws 1981

[2]Chapter 156, Montana Session Laws 1981

If the project involves a water users association, and the stockholders file a petition of protest, the disposal requires consent of the Legislature.

Amends 85-1-210, 85-1-211, MCA

Third reading votes: Senate 50-0 House 82-10

HB 324[1] - Burnett - Excepts from the water appropriation permit process the requirement for application for a permit prior to constructing an impoundment or pit and appropriating water for use by livestock if the source of water is other than a perennial flowing stream.

"A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is from a source other than a perennial flowing stream. However, within 60 days after constructing the impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. Upon receipt of a correct and complete application for a stockwater provisional permit, the department shall then automatically issue a provisional permit. If the department determines after a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the permit or require the permittee to modify the impoundment or pit and may then make the permit subject to such terms, conditions, restrictions, or limitations it considers necessary to protect the rights of other appropriators."

Amends 85-2-306, MCA

Third reading votes: Senate 47-0 House 90-2

HB 494[2] - Curtiss - Requires the Board of Natural Resources and Conservation to allow adequate time for a conservation district to develop a plan to utilize its reservation of water. It also requires the Department of Natural Resources and Conservation to comply with a request for assistance by a district within 12 months.

Any person desiring to use water reserved to a conservation district for agricultural purposes is required to make application for such use with the district, and the district upon approval of the application must inform the department of the approved use. The department is required to maintain records of all uses of water reserved to conservation districts and be responsible, when requested by the districts, for rendering technical and administrative assistance within the department's staffing and budgeting limitations in the preparation and processing of such applications for the conservation districts.

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[1]Chapter 160, Montana Session Laws 1981

[2]Chapter 186, Montana Session Laws 1981

The department is required to complete any feasibility study requested by the districts within 12 months of the time the request was made. The board shall extend the time allowed to develop a plan identifying projects for utilizing a district's reservation so long as the conservation district makes a good faith effort, within its staffing and budget limitations to develop a plan.

Amends 85-2-136, MCA

Third reading votes: Senate 48-0 House 93-0

HB 667[1] - Roth (By request of the Department of Natural Resources and Conservation) - Revises and clarifies the adjudication of water rights provisions. Provides for Supreme Court supervision and administration of the activities of water judges, water masters, and associated personnel, and requires the water judge in each water division to appoint at least one water master.

The bill provides that while negotiations for the conclusion of a compact concerning water rights are being pursued, all proceedings to generally adjudicate reserved Indian water rights and federal reserved water rights of those tribes and federal agencies which are negotiating, are suspended. The obligation to file water rights claims for those reserved rights is also suspended effective until July 1, 1985, as long as negotiations are continuing or ratification of a completed compact is being sought. If approval by the Legislature and tribes or agencies has not been accomplished by July 1, 1985, the suspension terminates on that date.

Amends 3-7-301, 85-2-112, 85-2-217, 85-2-225, 85-2-231, 85-2-233, 85-2-702, 85-2-704, MCA

Enacts 3-7-204, MCA

Third reading votes: Senate 47-1 House 98-1

SB 59[2] - S. Brown - Provides that the exemption for a stock watering pit of less than 15 acre-feet applies only if the parcel on which the impoundment is to be constructed is 40 acres in size or larger. The bill also provides a retroactive application.

The pertinent language of the bill reads: "A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet, the appropriation is from a source other than a perennial flowing stream, and the impoundment or pit is to be constructed on and will be accessible to a parcel

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[1]Chapter 268, Montana Session Laws 1981

[2]Chapter 30, Montana Session Laws 1981

of land that is owned or under the control of the applicant and that is 40 acres or larger."

The act "applies to applications pending with the Department of Natural Resources and Conservation on the effective date of this act, as well as applications filed with the department after the effective date...."

Amends 85-2-306, MCA

Third reading votes: Senate 43-4 House 86-8

SB 110[1] - Story - Deletes the requirement that a decree of water right be certified to evoke an exception to the filing fee.

"Each claim filed...shall be accompanied by a filing fee in the amount of $40, subject to the following exceptions:

1. The total filing fees for all claims filed by one person in any one water court division may not exceed $480; and,

2. No filing fee is required accompanying a claim of an existing right that is included in a decree of a court in the State of Montana and which is accompanied by a (certified deleted) copy of that decree or pertinent portion thereof..."

Amends 85-2-225, MCA

Third reading votes: Senate 34-12 House 90-3

SB 176[2] - Stimatz (By request of the Department of Natural Resources and Conservation) - Generally revises and clarifies the appropriation and permit provisions of the Water Use Act. It exempts permit requirements outside the boundaries of a controlled groundwater area whenever the appropriation of groundwater is by means of a well or developed spring with a maximum appropriation of less than 100 gallons per minute. Within 60 days of the completion of the well or developed spring the appropriator is required to file a notice of completion with the department and the county clerk and recorder. Upon receipt of the notice, the department must review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing if the notice is refiled within 30 days. The department may allow additional time, not to exceed six months.

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[1]Chapter 253, Montana Session Laws 1981

[2]Chapter 357, Montana Session Laws 1981

The bill requires the department, upon receipt of a proper application for a permit, to prepare a notice containing the facts pertinent to the application. The notice must be published in a newspaper once a week for three consecutive weeks. The department is also required to serve the notice by first-class mail upon an appropriator, applicant, or holder of a permit who may be affected by a proposed application. Within 120 days after the last date of publication of the notice of application , if no objections have been received, and, within 180 days if a hearing is held or objections have been received, the department must grant, deny, or condition an application for a permit in whole or in part. The time may be extended upon agreement of the applicant or, in cases where an environmental impact statement must be prepared.

The department is required to issue a permit if:

1. There are unappropriated waters;

2. The rights of a prior appropriator will not be adversely affected;

3. The proposed means of diversion, construction, and operation of the appropriation works are adequate;

4. The proposed use of water is a beneficial use;

5. The proposed use will not interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved;

6. An applicant for an appropriation of 10,000 acre-feet a year or more and 15 cubic feet per second or more proves by clear and convincing evidence that the rights of a prior appropriator will not be adversely affected;

7. Except as provided in (6) above, the applicant proves by substantial credible evidence the criteria listed in (1) through (5).

The bill establishes a water right appropriation account in the earmarked revenue fund of the state treasury. Fees collected are deposited in the account to help pay administrative expenses. In addition, a reasonable proportion of the department's cost of preparing an environmental impact statement shall be paid by the applicant unless waived by the department upon a showing of good cause by the applicant.

Amends 85-2-306, 85-2-307, 85-2-310, 85-2-311, 85-2-316, MCA

Enacts 85-2-318, MCA

Third reading votes: Senate 49-0 House 91-1

SB 199[1] - Etchart - Allows the Department of Natural Resources and Conservation to suspend action on a class of applications to appropriate water from the Milk River Basin. Suspensions and closures may only be proposed by the department. The proposal must state the source in the basin and class of applications for which suspensions and closures are being proposed and any of the following allegations:

1. That the frequency of occurrence of unappropriated waters is such that:
   a. any new appropriation from the source for the class of applications will adversely affect the rights of a prior appropriation from the source; or
   b. any new appropriation from the source for the class of applications will interfere unreasonably with another planned use or development for which a permit has been given or for which water has been reserved in the source.

2. That significant disputes or enforcement problems regarding priority of rights or amounts or duration of water in use by appropriators are in progress or will arise.

The bill also establishes a hearing, notice, and order procedure for this section.

Enacts 85-2-321 through 85-2-323, MCA

Third reading votes: Senate 49-1 House 75-21

SB 243[2] - Graham (By request of the Department of Natural Resources and Conservation) - Authorizes the Department of Natural Resources and Conservation to consent on behalf of the state to diversions of water from the Yellowstone River Basin pursuant to Article X of the Yellowstone River Compact, including diversions of water allocated under the terms of the compact to the other signatory states of Wyoming and North Dakota.

Diversions may not be made until one of the following occurs, whichever is later:

1. The legislature ratifies the first determination of the department to consent to a diversion of water from the

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[1]Chapter 524, Montana Session Laws 1981

[2]Chapter 581, Montana Session Laws 1981

basin pursuant to Article X of the compact; or

2. July 1, 1983.

A decision by the department to disapprove a diversion of water is not subject to legislative approval.

The bill establishes application, objection, hearing, and notice procedures and sets criteria for approval of a diversion and authorizes the department to appear in administrative and legal procedings.

Enacts 85-2-801 through 85-2-807, MCA

Third reading votes: Senate 41-8 House 79-14

KILLED:

HB 120 - Conroy - Removes the law which permitted governmental entities to reserve water for existing or future beneficial uses or for the purpose of maintaining a minimum flow or quality of water throughout the years. Also repeals the Yellowstone River Basin moratorium provisions regarding appropriations and reservation of water.

Amends 85-2-102, 85-2-232, 85-2-307, and 85-2-311, MCA

Repeals 85-2-316 and 85-2-601 through 85-2-608, MCA

Bill died in House Select Committee on Water

HB 194 - Ellison - Makes a reservation of water by governmental entities provisional and subject to repeal or change by the Legislature.

Bill killed in House Select Committee on Water

HB 397 - McBride - Provides for the Board of Natural Resources and Conservation to lease water projects managed by the department to any person, association, partnership, or corporation for the purposes of developing hydroelectric generation capabilities.

Amends 85-1-102, MCA

Bill died in Senate Committee on Natural Resources

HB 432 - Menahan - Creates a presumption of abandonment of appropriated industrial water rights in cases where an industrial facility ceases operations and announces its intent to do so permanently.

Amends 85-2-404 and 85-2-405, MCA

Bill died in House Select Committee on Water

HB 529 - Roth - Authorizes the Board of Natural Resources and Conservation to require an applicant for a reservation of water to prove that there is sufficient unappropriated water to fully satisfy such reservation or make provisions for the development and maintenance of off-stream or tributary storage facilities for the purpose of maintaining the minimum flow, level, or quality of water to the extent granted in the reservation.

Amends 85-2-316, MCA

Bill killed on third reading in House

HB 551 - Kemmis - Establishes an additional criteria for the issuance of water right permits. For large quantities of water, the Department of Natural Resources and Conservation shall consider the benefits of the applicant and the state, the effects on the quality of water in the source of the supply and the effects on private property rights by the creation of or contribution to saline seep.

Amends 85-2-311, MCA

Bill killed in House Select Committee on Water

HB 628 - Briggs - Prohibits the Department of Natural Resources and Conservation from constructing, operating, and maintaining water projects for the development of power while providing the department with specific authority to lease water projects for that purpose.

Amends 85-1-102, MCA

Bill died in House Committee on Natural Resources

HB 670 - Curtiss - Seeks to insure effective utilization of the potential of the agricultural lands in Montana by reserving to the Department of Natural Resources and Conservation limited amounts of groundwater for the lands in Montana that are susceptible to the pursuit of agriculture and are economically feasible to irrigate.

Amends 85-2-401 and 85-2-508, MCA

Bill died in House Select Committee on Water

HB 697 - McBride - Requires users of suction dredges in state waters to obtain a license from the Department of Health and Environmental Sciences.

Bill killed on third reading in Senate

SB 108 - Story - Amends the application procedure for filing a claim for an existing water right so that a claim for a right may include several and seperate uses of water if the uses have in common a source, point of diversion, and date of appropriation.

Amends 85-2-224, MCA

Bill killed in Senate Committee on Agriculture

SB 140 - Dover - Classifies new qualifying small power production facilities as class five property (taxed at 3 percent of its market value) for tax purposes during construction and for the first five years of operation.

Amends 15-6-135, MCA

Bill died in House Committee on Taxation

SB 196 - Dover - The violation of any provision of state law concerning the construction or filing of a dam, dike, or reservoir constitutes Dam Breach. Modifies the penalties that may be imposed for Dam Breach. The maximum fine for a violation is increased from $500 to $50,000 while the provision making this a crime of homicide in cases where death ensues, is stricken.

Bill killed in Senate on second reading

SB 254 - Dover - Grants consent to Intake Water Company to divert from the Yellowstone River Basin to the Little Missouri River Basin 14,000 acre-feet a year of the waters of the Yellowstone River from Intake's 1973 appropriation for the permitted uses by the customers of Intake Water Company, which includes 2,000 acre-feet to be used by its customers in the State of North Dakota.

Bill killed in Senate Committee on Agriculture

SB 285 - Story - Prohibits the Board of Natural Resources and Conservation from granting a minimum flow reservation a preference over or priority date earlier than an agricultural reservation considered concurrently and requires the board to conform present reservations to that provision.

Amends 85-2-316, MCA

Bill killed in House Select Committee on Water

OTHER

PASSED:

HB 596[1] - Williams - Recognizes a secondary easement for entry to and inspection, maintenance and repair of canals and ditches. Prohibited is the encroachment upon or impairment of easements for canals or ditches used for irrigation or any other lawful domestic or commercial purpose. This includes carrying return water. If a legal action is brought to enforce the provision of this section, the prevailing party is entitled to costs and reasonable attorney fees.

Enacts 70-17-112, MCA

Third reading votes: Senate 46-2 House 96-0

SB 94[2] - Boylan - Provides that a water judge may be a retired district judge; that a water judge may resign; and, permits a district judge or retired district judge to sit as a water judge in more than one division when called by the chief justice or another water judge.

Amends 3-7-201, 3-7-203, 3-7-213, 3-7-501, 19-5-103, MCA

Third reading votes: Senate 47-0 House 96-1

SB 347[3] - Galt - Creates the office of chief water judge. The chief justice of the Montana Supreme Court appoints a chief water judge from among the district judges serving or retired as of the time of appointment. With regard to the determination of existing water rights, the chief water judge has the same powers as a district water judge.

Duties of the chief water judge include:

1. Coordination with the Department of Natural Resources and Conservation in compiling information submitted on water claim forms to insure that the information is expeditiously and properly compiled and transferred to the water judge in each water division;

2. Assuring that the water judge in each water division moves without unreasonable delay to enter the required preliminary decree; and,

3. Assuring that any contested or conflicting claims are tried and adjudicated as expeditiously as possible.

Enacts 3-7-221 through 3-7-224

Third reading votes: Senate 46-2 House 99-0

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[1]Chapter 371, Montana Session Laws 1981

[2]Chapter 80, Montana Session Laws 1981

[3]Chapter 442, Montana Session Laws 1981

KILLED:

SB 297 - Turnage - Defines "surface water" and amends the definition of "groundwater".

Amends 85-2-102 and 85-2-501, MCA

Bill killed in House Select Committee on Water

(See also Pollution, Water)

G E N E R A L

Numerous pieces of legislation were introduced in the last session which do not invite placement in a particular category but nonetheless are relevant to natural resource issues. The bills of this nature which passed:

.. transferred forestry functions of the Department of Natural Resources to the Department of State Lands;

.. merged the Department of Community Affairs with the Departments of Business Regulation and Professional and Occupational Licensing to form the new Department of Commerce;

.. revised the Board of Health and Environmental Sciences;

.. requested a study of the methods that will be used to terminate administrative rules in the natural resources area;

.. requested a study of grants and contracted services in the natural resources area; and,

.. imposed constraints on the making of renewable resource development grants and loans.

One of the defeated measures sought to abolish the Environmental Quality Council while another was concerned with expanding the duties and powers of the Council. The other unsuccessful bills would have, among other things, consolidated the environment-related functions of the state government in the Department of Natural Resources and Conservation, created a position of permit facilitator to assist persons in complying with license and permit requirements, and would have amended the laws relating to economic impact statements for state agency rule-making.

PASSED:

HB 330[1] - Kanduch - Revises the membership of the Board of Health and Environmental Sciences. The board now consists of seven members appointed by the Governor as follows:

1. Two members having professional qualifications in a human health service....;

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[1]Chapter 450, Montana Session Laws 1981

2. One member is a doctor of veterinary medicine....;

3. Four members who do not have the (above) qualifications and who have demonstrated an active interest in the field of public health and the economic welfare of the state.

Amends 2-15-2104, MCA

Third reading votes: Senate 48-2 House 86-10

HB 600[1] - Curtiss - Imposes additional constraints on the making of renewable resource development grants or loans and establishes the uses for which such grants or loans may be proposed.

The bill directs that renewable resource developments shall be multiple-use projects and shall not significantly diminish the quality of existing public resources such as land, air, water, fish, wildlife, and recreational opportunities. Programs must provide a tangible return to the state or its citizens. Of the total amount of grants and loans proposed for each biennium, at lease 40 percent shall be designated for water development projects.

Amends 90-2-103, MCA

Third reading votes: Senate 49-0 House 92-5

HJR 51 - Bertelsen - Requests an interim study of the methods and procedures that might be used to terminate or replace administrative rules relating to the state's environment and natural resources. In conducting the study, the appropriate committee shall review any laws adopted by other states providing for "sunset" termination of agency regulations and estimate the cost and benefits of adopting laws requiring "sunset" termination. (The study is not prioritized.)

Third reading votes: Senate 35-15 House 85-8

SB 258[1] - S. Brown (By request of the office of the Governor) - Transfers forestry functions of state agencies as part of the Governor's executive reorganization plan.

Transferred from the Department of Natural Resources and Conservation to the Department of State Lands are the following functions: fire protection of natural resources; protection of forest resources; appraising, protecting, and selling state timberlands; and closing of lands to hunting and fishing in fire danger areas. Corresponding functions of the Board of Natural Resources and Conservation are transferred to the Board of Land Commissioners.

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[1]Chapter 529, Montana Session Laws 1981

Generally revises the appropriate laws to conform to the transfer and requests that the Governor make recommendations in this area to the 1983 Legislature.

Amends 75-10-203, 76-13-104, 76-13-106, 76-13-109, 80-8-110, MCA

Enacts 77-5-103, MCA

Third reading votes: Senate 49-0 House 94-0

SB 432[1] - Van Valkenburg (By request of the office of the Governor) - Merges the Department of Professional and Occupational Licensing and certain functions of the Department of Community Affairs with the Department of Business Regulation and renames that department the Department of Commerce.

Functions of the DCA which are transferred to the DOC include but are not limited to the following:

1. Allocation of state funds for public transportation;
2. Administration of the Montana Economic Land Development Act;
3. Providing assistance to development credit corporations;
4. Administration of the Major Facility Siting Act;
5. Establishment of minimum subdivision review rules;
6. Planning and developing the state's economy, generally; and
7. Administration of the Montana Coal Board.

Additionally the allocation of weatherization funds, formerly administered by the DCA, is transferred to the Department of Social and Rehabilitation Services.

Amends 2-15-104, 2-15-1803, 37-60-101, 76-3-504, MCA

Enacts 2-15-2007, 37-1-130, 90-1-109, MCA

Repeals 2-15-1101, 2-15-1601, 67-2-201, 67-2-205, MCA

Third reading votes: Senate 50-0 House 97-2

SJR 8 - Keating - Requests an interim study on the use of grants and contracted services by state government in natural resource

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[1]Chapter 274, Montana Session Laws 1981

and environmental science areas. The resolution requests the Legislative Finance Committee to study the use of grants and contracted services of the following agencies: Department of Fish, Wildlife, and Parks; Department of Natural Resources and Conservation; Coal Board; and, Environmental Sciences Division of the Department of Health and Environmental Sciences.

The committee is requested to consider: source of funds; statutory conditions attached; distribution of funds; monitoring and reporting; utilization and benefits; and, alternatives.

Resolution requests a report to the 48th Legislature, and if necessary, the drafting of legislation to implement recommendations. (The study is not prioritized.)

Third reading votes: Senate 47-1 House status unclear

KILLED:

HB 329 - Kanduch - Generally revises the procedure for obtaining an economic impact statement required by the Administrative Code Committee.

Amends 2-4-305 and 2-4-405, MCA

Bill vetoed by Governor

SB 364 - Hafferman - Provides for the awarding of attorneys fees and court costs to defendants in certain environmental class action suits when the defendant prevails.

Bill killed in Senate Committee on Judiciary

HB 373 - Kemmis (By request of the Environmental Quality Council) - Creates the appointed position of permit facilitator within the office of the Governor. The facilitator shall, so far as is practicable, advise applicants of federal and local government license and permit requirements.

Bill killed in House Committee on Natural Resources

HB 586 - Kanduch - Requires the preparation of an economic impact statement on each proposed adoption, amendment, or repeal of an agency rule. Provides for the refusal of acceptance by the Administrative Code Committee of any impact statement deemed inadequate and prohibits an agency from continuing rule-making proceedings until acceptance of the applicable statement by the committee.

Amends 2-4-305 and 2-4-405, MCA

Bill killed in House Committee on State Administration

HB 682 - Kemmis - Abolishes the Environmental Quality Council,

Amends 75-1-102, 75-1-201, 75-10-111, 75-20-211 and 75-20-501, MCA

Repeals Repeals 5-16-101 through 5-16-105, 75-1-301 through 75-1-313, and 75-1-322 through 75-1-324, MCA

Bill died in House Committee on State Administration

HB 723 - Bertelsen - Requires the Administrative Code Committee to conduct a study of methods that might be used to terminate superfluous administrative rules affecting the environment and natural resources of the state.

House Committee on State Administration recommended Do Pass; the bill failed to meet transmittal deadline on Second Reading

SB 181 - Story (By request of the Administrative Code Committee) - Generally amends the law relating to economic impact statements for state agency rule-making and changes the requirements for adoption of agency rules.

Amends 2-4-305 and 2-4-405, MCA

Bill died in House Committee on State Administration

SB 282 - Dover - Requires the Environmental Quality Council to act as a legislative energy and natural resources policy review committee. Also provides for additional duties and powers for the Council concerning its review of energy and natural resource policies and establishes additional procedures under which the Council functions.

Amends 2-4-402 and 75-1-301, MCA

Bill killed on second reading in Senate

SB 430 - Keating - Consolidates natural resource and environment related functions of the state government in the Department of Natural Resources. Transferred to the Department of Natural Resources are the regulatory functions of the Department of Health and Environmental Sciences relating to air and water quality, public water supply, sanitation in subdivisions, major facility siting, and mine and tailings disposal.

Repeals 75-5-502, MCA

Bill died in Senate Committee on Natural Resources